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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JANET GARCIA, *ET AL*,  
Plaintiffs,

v.

CITY OF LOS ANGELES,  
A MUNICIPAL ENTITY,  
Defendants.

CASE NO. 2:19-cv-06182-DSF-PLA

**DISCOVERY MATTER**

**JOINT STIPULATION  
REGARDING PLAINTIFF'S  
MOTION TO COMPEL  
DEFENDANT CITY OF LOS  
ANGELES'S RESPONSES TO  
PLAINTIFF ALI EL BEY'S  
REQUEST FOR PRODUCTION  
OF DOCUMENTS (SET ONE)**

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1 **I. INTRODUCTORY STATEMENT**

2 **a. Plaintiffs' Introductory Statement**

3 Plaintiffs, seven unhoused residents from neighborhoods throughout Los  
4 Angeles, and two organizations, brought this case in July 2019 to put a stop to the  
5 City's customs, policies, and practices of unconstitutionally seizing and destroying  
6 unhoused people's belongings, which Plaintiffs allege violate their rights under the  
7 Fourth and Fourteenth Amendments to the U.S. Constitution and Article 1,  
8 Sections 7 and 13 of the California Constitution. They challenge the  
9 constitutionality of Los Angeles Municipal Code Section 56.11 ("LAMC 56.11"),  
10 which the City amended in 2016 to allow it to impound and often immediately  
11 destroy unhoused people's property. And they challenge the City's policies,  
12 customs, and practices related to the enforcement of that ordinance, which is done  
13 primarily through two types of encampment cleanups: comprehensive cleanups  
14 which are noticed and require individuals to vacate the area during the cleanups,  
15 and rapid response enforcement actions, which are not noticed. These allegations  
16 are spelled out in a lengthy Second Amended Complaint ("SAC"), Dkt. 43, which  
17 describes not only the ordinance and written policies, but also unconstitutional  
18 customs and practices (which are necessarily unwritten). *See e.g.* SAC ¶¶ 65-123.

19 The Plaintiffs seek prospective relief under both 42 U.S.C. Section 1983 and  
20 the Declaratory Judgments Act, 28 U.S.C. §§ 2201, 2202. Although the individual  
21 Plaintiffs each bring damages claims, the District Court noted that "the allegations  
22 of the Supplemental FAC make clear that [the individual plaintiffs'] claims for  
23 injunctive and declaratory relief are significant and potentially more consequential  
24 than their request for damages." *See* Order Granting in Part and Denying in Part  
25 Defendant's Motion to Dismiss (Dkt. 36), Declaration of Shayla Myers ("Myers  
26 Decl."), Exh. I ("February Order") at n. 20. And Plaintiff Ktown for All (KFA),  
27 including on behalf of its members, seeks only prospective relief related to the  
28

1 City's customs, practices, and policies. *See* Order granting in Part and Dismissing  
2 in Part Defendant's Motion to Dismiss (Dkt. 65), Myers Decl., Exh. L ("June  
3 Order") at 8.

4 With that relief in mind, Plaintiffs propounded 49 RFPs to Defendant in  
5 October 2019, which were deemed served in July 2020. Each of the RFPs is time-  
6 limited and seeks discovery on a discrete topic germane to this case<sup>1</sup>:

- 7 • Documentation of/about cleanups specifically enumerated in the SAC
- 8 ("the Specific Incidents,") and other cleanups Plaintiffs experienced or
- 9 that occurred in locations where they have lived (RFP 2);
- 10 • Documents showing organizational structure of relevant City
- 11 departments (RFPs 3-10);
- 12 • Written policies and procedures related to encampment cleanups, LAMC
- 13 56.11 enforcement, and other discrete, related topics (RFPs 11-15);
- 14 • Trainings about the same topics (RFPs 16-20);
- 15 • Exemplars and instructions related to forms and notices used in the
- 16 commission of cleanups and enforcement of LAMC 56.11 (RFPs 20-29);
- 17 • Documentary evidence of the City's customs, practices, and application
- 18 of policies, including documentation of cleanups and disposition of
- 19 property (30-34, 37, 42-45); summaries, reports, analysis and data
- 20 compilations (35-36, 47-49); and complaints (38-41).

21 Consistent with the mandate of proportionality under Rule 26, the amount of  
22 documentary evidence Plaintiffs seek to prove customs and practices is calculated  
23 to balance Plaintiffs' need to establish the existence of unconstitutional customs,  
24 practices, and policies, with the City's purported burden. To that end, they seek 1)  
25 all documentation for cleanups that impacted or likely impacted Plaintiffs, going  
26 back only to January 1, 2018; 2) only discrete types of documents for other  
27 cleanups conducted the year before the Specific Incidents and to the present; and 3)  
28 data captured in the City's databases, which is easily and frequently exported, for  
cleanups from April 2016 to the present.

The City has objected since the beginning of this case that almost none of  
this documentation is even relevant to Plaintiffs' claims. It ignores the significant

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<sup>1</sup> In fact, many requests seek a only a specific type of document. *See e.g.*,  
RFPs 3-8 (job descriptions, organizational charts); RFPs 30-34 (specific forms);  
RFPs 35-36 (reports, statistics, and analysis).

1 constitutional issues at stake and frames this case as a low dollar damages case.  
2 The City has done its level best to limit the case—filing multiple Motions to  
3 Dismiss and then a Motion for Judgment on the Pleadings. But each Court ruling  
4 has confirmed and even clarified that this case aims to end the City’s widespread  
5 and longstanding unconstitutional customs, practices, and policies.

6 Even after all of these Court rulings and a City-wide Preliminary Injunction  
7 enjoining parts of LAMC 56.11 on its face, *see* Dkt. 58, the City continues to  
8 contend this case is just about the Specific Incidents.<sup>2</sup> It has barely budged on its  
9 relevance objections. Because it maintains this discovery is not relevant, any  
10 burden required to produce discovery is not proportionate to the needs of the case.

11 The City’s untenable yet unwavering position has infected every aspect of its  
12 participation in discovery, even when the City has agreed to produce documents.  
13 As described in detail below, Plaintiffs have identified countless documents the  
14 City has withheld, including whole categories of documents and most egregiously,  
15 documents related to the Plaintiffs’ Specific Incidents. The City has refused to  
16 provide written responses that comply with Rule 34, so Plaintiffs have no way of  
17 knowing whether the failure to produce responsive documents is because of the  
18 pages of impermissible and vague objections, its failure to conduct reasonable  
19 searches, its indefinite, interminable, and impermissible “rolling production,” or  
20 for some other reason.

21 Plaintiffs are entitled and in fact need this discovery to prove its case. The  
22 City cannot meet its burden of demonstrating otherwise, and its conduct to date has  
23 demonstrated that Plaintiffs need an Order from this Court to obtain it.

---

24  
25 <sup>2</sup> Even if the case were solely about the Specific Incidents, Plaintiffs would  
26 still be required to prove the violations were the result of widespread and  
27 longstanding policies, customs or practices to establish *Monell* liability, for which  
28 the requested discovery would be both relevant and proportional. *See e.g., Pitkin*  
*v. Corizon Health, Inc.*, No. 3:16-cv-02235-AA, 2017 WL 6496565, at \*2 (D. Or.  
Dec. 18, 2017).

**b. Defendant's Introductory Statement**

The Parties fundamentally disagree about the scope of the discovery needed for this case. The SAC alleges that in 2019, the City unlawfully seized and/or destroyed Plaintiffs' property during several encampment cleanups. As discussed below, there is no dispute that the City conducted such cleanups pursuant to an ordinance it adopted, codified in LAMC 56.11, which authorizes removal and/or disposal of items stored in the public right of way. Yet, Plaintiffs insist that the case is about "whether the City has a widespread practice and custom of destroying people's belongings in violation of the Fourth and Fourteenth Amendment." Plaintiffs seek all documents dating back 2016 to the present on a vast array of topics wholly unrelated to the specific incidents that form the basis of their complaint. These include, for example, records relating to arrests, though no Plaintiffs alleges they were arrested, all documents related to over 40,000 encampment cleanups conducted since 2016; and all documents (including presenters' notes, calendar invitations, and communications) related to all trainings conducted since 2016 on a variety of topics, including ones that are peripheral to encampment cleanups such as storage and illegal dumping.

Plaintiffs argue that this broad discovery is relevant to *Monell* liability and their claim for declaratory relief. Both arguments fail. First, Plaintiffs do not need discovery to establish the existence of some unwritten policy or practice. The SAC unambiguously alleges that: "LAMC 56.11 codifies the City's longstanding policy of seizing and destroying homeless people's belongings." *See* Declaration of Felix Lebron ("Lebron Decl.") ¶2, Ex. 27 (SAC) at ¶58. Moreover, the facts relevant to *Monell* are **not in dispute**. In its Answer, the City has conceded that it: (1) promulgated LAMC 56.11 and related Protocols; (2) conducts encampment cleanups pursuant to LAMC 56.11, during which it removes and/or discards items on the public right of way, including items that may belong to homeless persons;

(3) does not obtain a warrant before removing and/or discarding items pursuant to LAMC 56.11; (4) provides notice (or not) in connection with removing and/or discarding items, as specified in LAMC 56.11; and (5) has enforced LAMC 56.11 since 2016 and continues to enforce it to this day. *See* Lebron Decl. ¶3, Ex. 28 (Answer to SAC) at ¶¶16, 20, 21, 56, 68, 102, 114. In fact, the City has offered to stipulate to *Monell* liability to streamline discovery and trial—an offer that Plaintiffs refused. Declaration of A. Patricia Ursea (“Ursea Decl.”) at ¶¶2-4, Exh. 1, 2. Against this background, Plaintiffs’ contention that the documents are needed to show *Monell* liability is simply false. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist. LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“discovery related to strip searches is unnecessary as it is undisputed that the search was conducted pursuant to the City’s written policy, which had been in effect since 1999”).

Plaintiffs’ argument that they need all documents showing what the City has done with respect to encampment cleanups from 2016 forward to prove entitlement to declaratory relief likewise fails. A declaratory judgment provides prospective relief to address future or continuing violations, not past harms. Thus, Plaintiffs’ request for prospective relief depends on the City’s *existing* policies and practices—which are not in dispute and in any event could not be proven by historical documents.

The only discovery relevant to proving an issue in this case relates to the circumstances under which Plaintiffs allege their property was seized and/or destroyed by the City. Specifically, the parties are entitled to discovery relevant to show: (1) whether Plaintiffs’ property was in fact seized and/or destroyed by the City; (2) whether any such seizure and/or destruction was unreasonable under the Fourth Amendment; (3) whether Plaintiffs received notice and opportunity to be

1 heard sufficient to satisfy due process; and (4) whether any destroyed property was  
2 the type that should have been stored under California Civil Code § 2080 *et seq.*

3 Even if Plaintiffs could establish some marginal relevance for their fishing  
4 expeditions, Plaintiffs' demand that the City find, collect, review and produce "all"  
5 documents responsive to each request is not proportional to the needs of the case.  
6 As described below, the requests are overbroad by any standard—each seeks  
7 documents dating back several years on topics that have little or nothing to do with  
8 Plaintiffs' claims. Nevertheless, the City has reasonably compromised on  
9 Plaintiffs' requests, including producing database information about tens of  
10 thousands of cleanups spanning three years and collecting emails from 30  
11 custodians, in several City departments, using the search terms proposed by  
12 Plaintiffs. As a result of these compromises, to date, the City has produced 26,271  
13 documents (totaling 92,000 pages) directly responsive to each and every one of  
14 Plaintiffs' overbroad requests. The productions reflect what the City has  
15 repeatedly told Plaintiffs—that while it will not agree to undertake a massive  
16 expedition for historical documents that may or may not exist, nor find each and  
17 every flyer for every training conducted since 2016, to the extent it identifies non-  
18 privileged responsive documents in its reasonable investigation and the agreed-  
19 upon email review, it will not withhold them.

20 The City collected over 500,000 emails using the Plaintiffs' requested  
21 custodians and search terms. The City's e-discovery vendor recently loaded a data  
22 set of 475,000 emails. While the parties had initially agreed to meet and confer  
23 regarding this data set, Plaintiffs served this stipulation while the City was in the  
24 process of producing documents from the first 70,000 emails. Ursea Decl. ¶¶37-42.  
25 The discovery Plaintiffs seek to compel is unnecessary to resolve the issues in this  
26 case and the burden imposed on the City far outweighs Plaintiffs' unsubstantiated  
27  
28



1 need for such discovery. Plaintiffs' demand that the City produce *all* documents,  
2 within 21 days, is an abuse of the discovery process. The motion should be denied.

## 3 **II. MEET AND CONFER EFFORTS**

### 4 **a. Plaintiffs' Summary of Meet and Confer Efforts**

5 As summarized below and documented more thoroughly in the attached  
6 declaration, Plaintiffs have attempted since October 2019 to work with Defendant  
7 City of Los Angeles to obtain highly relevant discovery in this case, largely  
8 without success. Although quantitatively, the City has produced approximately  
9 11,000 documents in the course of discovery, the City still refuses to produce the  
10 vast majority of highly relevant documents sought by Plaintiffs in response to these  
11 requests. It continues to assert relevance and proportionality objections to nearly  
12 every single one of Plaintiffs' requests. The City also refuses to provide written  
13 responses to the requests that comply with Rule 34 of the Federal Rules of Civil  
14 Procedure or even provide a date certain when the City will complete production of  
15 responsive documents.

16 Plaintiffs first sought to begin discovery and provided the Requests for  
17 Production of Documents to Defendant, City of Los Angeles – Set One (“RFP  
18 Request – Set One”) at issue here on October 16, 2019, three months after the case  
19 was filed, in an attempt to work with Defendants to obtain discovery in an efficient  
20 manner, knowing that the City continued to engage in unconstitutional practices  
21 against unhoused residents of the City, including the Plaintiffs.

22 Defendants declined to begin discovery, but after Plaintiffs indicated their  
23 intention to move for an order compelling early discovery, Defendant stated that  
24 they were “willing to now provide you with documents relating to all 2019  
25 incidents alleged in the Supplemental Complaint” (hereinafter “Specific  
26 Incidents”). *See* Myers Decl., ¶ 4, Exh. D. On November 9, 2019 and December  
27 10, 2019, the City produced some of the City's documentation related to some of  
28



1 the Specific Incidents alleged in the complaint. Although counsel for the City had  
2 represented that the documents were related to “all 2019 incidents” enumerated in  
3 the Complaint, the City failed to provide any documentation related to Plaintiff  
4 James Haugabrooks’ specific incidents or the incidents enumerated by Plaintiffs  
5 Miriam Zamora and Gladys Zepeda on March 21 and June 11, 2019.<sup>3</sup> *Id.* ¶ 8.

6 On November 26, Plaintiffs raised to the City the issue of a lack of  
7 documentation related to the cleanups impacting Mr. Haugabrook. *Id.* ¶ 9. In  
8 response, counsel for the City stated unequivocally that the City had no records  
9 related to Mr. Haugabrook’s allegations, that the cleanup “either did not occur or,  
10 if it did, the incident occurred at a different location, on a different date, or both.”  
11 Counsel indicated that the City was assessing “what appears to be a failure to  
12 investigate the basis of Mr. Haugabrook’s claims before filing suit.” *Id.* ¶ 11, Exh.  
13 F at 3. Counsel stated their intention to produce “the reports of all cleanups  
14 conducted in South LA in March 2019 for the purposes of expediting  
15 Haugabrook’s dismissal.” *Id.* On January 10, 2020, the City produced records of  
16 22 cleanups, which the City represented took place in “South Los Angeles” during  
17 March 2019. *Id.* ¶ 16.

18 On January 15, 2020, Plaintiffs filed a Motion for Expedited Discovery,  
19 which this Court denied on January 29. *See* Myers Decl. ¶ 15, Exh. H. In its  
20 portion of the Joint Stipulation, counsel for the City represented, both in the motion  
21 and in the corresponding declaration under penalty of perjury that the City had  
22 produced “all records for all cleanups in South Los Angeles in March 2019.” *Id.*,  
23 Exh H at 27; *see also* Declaration of Patricia Ursea, Myers Decl., Exh. H.

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24  
25 <sup>3</sup> The City produced documentation for a number of cleanups around where  
26 Ms. Zamora and Ms. Zepeda were living on July 11, 2019, the City failed to  
27 produce any documentation related to the cleanup at their specific location. With  
28 regards to the March 21, 2019 cleanup, the City produced documentation for a  
cleanup the next block over, but not where Ms. Zepeda and Ms. Zamora were  
residing at the time. Myers Decl., ¶ 8.

1 On February 15, 2020, the District Court ruled on the motions to dismiss,  
2 denying the Rule 12(b)(6) claims as to nearly all Plaintiffs' claims. Myers Decl.,  
3 Exh. I., February Order. The Court granted in part the City's 12(b)(1) motion as to  
4 AREPS and ordered Plaintiffs to amend to clarify Ktown for All's claims for relief.  
5 The Court also denied the City's Rule 8 motion against Mr. Haugabrook, finding  
6 that his allegations regarding numerous cleanups over three months were sufficient  
7 to put Defendant on notice about his claims. *Id.* Thereafter, Plaintiffs filed an  
8 amended complaint making only minor amendments to the remedies section, as  
9 ordered by the Court.

10 On February 26, 2020, Plaintiffs filed a motion for a preliminary injunction,  
11 to enjoin the enforcement of two provisions of LAMC 56.11, which the District  
12 Court granted. *See* Plaintiffs' Motion for a Preliminary Injunction, Dkt. 38; Order  
13 Granting Motion for Preliminary Injunction, Dkt. 58. As a result, these provisions  
14 were enjoined City-wide. The City filed another motion to dismiss, this time  
15 challenging Ktown for All's standing to bring Section 1983 claims and again  
16 challenging AREPS' standing. *See* Defendant's Motion to Dismiss, Dkt 57. The  
17 motion was denied as to Ktown for All and granted as to AREPS on June 2, 2020.  
18 Myers Decl., Exh. L, June Order. The Court issued a scheduling order for August  
19 3, 2020. On the last day to meet and confer before the scheduling conference, the  
20 City finally agreed to conduct the Rule 26 conference, and Plaintiffs' RFPs were  
21 deemed served on July 13, 2020. Myers Decl., ¶ 2.

22 At the Rule 26 conference of counsel, Plaintiffs attempted to address the  
23 City's concerns about burden and proportionality, but with no success. *Id.*, ¶ 25-26.  
24 After the parties submitted their Rule 26 report, Plaintiffs again sought to meet and  
25 confer with the City regarding the discovery plan and issues Plaintiffs had raised  
26 and about which the parties had not reached agreement. *Id.*, ¶¶ 27-28 & Exh. N.

1 The City refused to meet until after the City submitted its responses to Plaintiffs’  
2 discovery responses. *Id.*, Exh. O.

3 On July 30, 2020, after further discussions between the parties related to the  
4 City’s intended Motion for Judgment on the Pleadings, which the City intended to  
5 file to attack Plaintiff Ktown for All’s Section 1983 claims, Plaintiffs sent a letter  
6 specifically outlining Plaintiffs’ claims for prospective relief, including addressing  
7 a proposal by the City to bifurcate the trial (and discovery) to first address the  
8 Specific Incidents and then address remedies, if necessary. *Id.*, ¶¶ 26, 29 & Exh. P.  
9 Plaintiffs once again reiterated that focusing only on the Specific Incidents ignored  
10 Ktown for All’s claims entirely, and all of the Plaintiffs’ claims under the  
11 Declaratory Judgments Act, which were not based on the Specific Incidents, but  
12 instead, were based on allegations that the City has customs, practices and policies  
13 that violate the Constitution. Plaintiffs offered to meet and confer about this issue.  
14 The City did not respond to the letter. *Id.*, ¶ 29. The City filed a Motion for  
15 Judgment on the Pleadings to dismiss Ktown for All’s Section 1983 claims, which  
16 the Court denied on September 15, 2020. *See* Order Denying Defendant’s Motion  
17 for Judgment on the Pleadings (Dkt. 103).

18 The City responded to Plaintiffs’ RFPs on August 12, 2020. *See* Myers  
19 Decl., ¶30 & Exh. B. The City objected to almost every single request on  
20 relevance and proportionality grounds, suggesting that discovery was relevant only  
21 as to the facts that occurred in the Specific Incidents. Defendant refused to  
22 produce any documents responsive to 14 of Plaintiffs’ requests and severely  
23 limited the documents it would produce in response to at least 21 other requests.  
24 *See id.*, ¶32 & Exh. Q. The City produced documents along with the written  
25 responses; as with all past productions, the documents were produced as massive  
26 PDFs, without delineation of the individual documents and without any metadata.

1 Plaintiffs sent a request to meet and confer with the City regarding its  
2 responses, as required by Local Rule 37. *See id.* In response, Counsel for the City  
3 indicated his intention to seek a protective order and likewise requested a  
4 corresponding Rule 37 meeting. The parties exchanged letters in advance of the  
5 meeting, with the hopes of making the discussion as productive as possible. *Id.*, ¶¶  
6 32-33 & Exhs. Q, R.

7 On August 25, 2020 the parties met and conferred to discuss the City's  
8 responses to Plaintiffs' requests. *Id.* ¶ 34. Over the course of two and a half hours,  
9 Plaintiffs' counsel articulated the relevance of each and every discovery request;  
10 after doing so, the City refused to concede that any of the requests were relevant.  
11 *Id.* Plaintiffs reiterated their request for further information about the City's  
12 purported burden in producing responsive documents, in order to address their  
13 proportionality concerns, but the City was unwilling or unable to do so. *Id.*

14 Although the parties disagreed as to relevance, Plaintiffs suggested a number  
15 of compromises to reduce the purported burdens to the City and thereby eliminate  
16 its objections: 1) eliminate parameters on the production of different types of  
17 documents, so that the City does not have to conduct extensive searches and  
18 instead can simply produce all documents in certain categories – doing so would  
19 shift any potential burden of overproduction and review to the Plaintiffs; 2)  
20 conduct queries and sampling, to limit the number of documents that had to be  
21 reviewed; 3) to the extent that documents were not stored together, such that  
22 volume of documents is largely irrelevant to burden, Plaintiffs agreed to limit the  
23 timeframe for requests to January 1, 2018 to the present, and 4) discuss any other  
24 proposals the City had to reduce the burden of production. Myers Decl. ¶35 &  
25 Exh. S. Plaintiffs also identified significant documents the City had failed to  
26 produce, including most importantly, a large number of job descriptions and  
27 organizational charts, which Plaintiffs needed to identify custodians. *Id.* The City  
28

1 agreed to produce additional documents and to consider some of these proposals  
2 and would get back to Plaintiffs, *id.* ¶36; however, the City did not do so, *id.* ¶43.

3 On September 15, 2020, the District Court denied Defendant's latest attempt  
4 to dismiss Ktown for All from the litigation. *See* Dkt. 203.

5 On September 25, Defendant responded to Plaintiffs' September 14, 2020  
6 letter. Myers Decl. ¶38 & Exh. U. Although the City had repeatedly asserted that a  
7 ruling on Ktown for All's standing would affect the scope of discovery in this case,  
8 the City did not concede that the Court's denial of the City's Motion for Judgment  
9 on the Pleadings had any effect on discovery whatsoever, and instead, indicated  
10 that it was not willing to make any concessions. *Id.* The City largely stood by its  
11 broad objections to Plaintiffs' RFP Request – Set One on the ground that the  
12 information sought was not relevant nor proportionate to the City's articulated  
13 view of the case. *See id.* With regards to the deficient written responses,  
14 Defendant responded that "[t]he City is still in the process of producing documents  
15 responsive to the RFPs and will revisit the issue of providing amended responses  
16 and objections after the City completes its document production." *Id.*

17 Defendant served Defendant City of Los Angeles' Amended Responses and  
18 Objections to Plaintiffs' Requests for Production of Documents – Set One  
19 ("Amended Written Responses") on October 9, 2020. Myers Decl. ¶ 40 & Exh. C.  
20 The City did not address any of the deficiencies identified by Plaintiffs and largely  
21 reiterated its existing objections, including those that Plaintiffs had attempted to  
22 address during the meet and confer process. *See* Myers Decl. ¶ 46 & Exh. Z.

23 In November, the parties met and conferred further about the City's  
24 amended responses. *See* Myers Decl. ¶¶ 42-45. Although the City explicitly  
25 refused to concede that any of the requested information was relevant or  
26 proportionate to the needs of the case, Defendant now agreed to produce some  
27 additional documents responsive to Plaintiffs' requests. Defense counsel informed  
28

1 Plaintiffs for the first time that the City was now discussing the feasibility of  
2 exporting and producing all responsive raw data from databases the City identified  
3 that are used by LA Sanitation to store data related to encampment cleanups:  
4 WPIMS, AMS, and MyLA (311 requests). *Id.* Counsel indicated that they did not  
5 have enough information yet to commit to the production, but expected to provide  
6 an update by November 19, 2020. *Id.*

7 On November 19, the City agreed to export data from the three databases it  
8 had identified as containing LA Sanitation data related to cleanups and agreed to  
9 produce data from January 1, 2018 to the present by December 18, 2020. *Id.* ¶ 47  
10 & Exh. AA. The City also committed to looking into a number of other issues and  
11 indicated it would follow up on these issues. *Id.*

12 Three weeks later, after not receiving any further updates, Plaintiffs sent the  
13 City a follow up letter regarding a number of the outstanding issues related to the  
14 production of documents, including the need for a privilege log and written  
15 responses that complied with Rule 34. Myers Decl. ¶ 52 & Exh. AF. Plaintiffs  
16 reiterated the request for a date certain for the completion of the City's production  
17 and responses that complied with Rule 34. *Id.* The next day, December 11, the  
18 City provided an update regarding some of outstanding issues, but again refused to  
19 provide a date certain for the completion of any of the outstanding tasks, instead  
20 stating only that "we continue to work on these and the handful of other issues  
21 identified in your letter and will update you on a rolling basis as we learn  
22 additional information." Myers Decl. ¶ 54 & Exh. AH.

23 On December 16 and 18, the City produced a total of 693 additional  
24 documents—the vast majority of which (more than 550, totaling more than 4000  
25 pages) consisted of black and white PDFs of weekly reports to the Mayor and City  
26 Council related to LA Sanitation metrics, including aggregate "tonnage reports"  
27 and some statistics related to homeless encampments. Myers Decl. ¶ 55. The City  
28



1 produced data from 2018 and 2019 on December 18, and after Plaintiffs raised the  
2 issue of the City's failure to provide 2020 data, produced that data on December  
3 29. *Id.* ¶ 55.

4 On December 29, 2020, Counsel for the City provided a substantive  
5 response to some of the issues raised by Plaintiffs on December 9, but left a  
6 number of issues outstanding, stating only that "we are still working on the other  
7 categories of documents Plaintiffs requested, including police complaints, RFCs,  
8 and email communications, and will get back to you on these as soon as we can."  
9 Myers Decl. ¶ 56 & Exh. AJ.

10 This was the last correspondence from the City related to any of these issues,  
11 with the exception of emails, which is discussed below.

12 **i. Plaintiffs' efforts to meet and confer regarding the**  
13 **production of emails responsive to these requests**

14 The City objected initially to the production of any emails responsive to any  
15 of Plaintiffs' requests. Consistent with Rule 26, Plaintiffs attempted for months to  
16 engage with the City to identify a reasonable process of obtaining emails  
17 responsive to Plaintiffs' requests, including through the Rule 26 conference and the  
18 Rule 37 meet and confer process. The City agreed only to review a list of search  
19 terms and custodians provided by the Plaintiffs, but because the City objected that  
20 any email production was not proportionate to the needs of the case, the City did  
21 not identify any custodians or appropriate search terms. The City also failed to  
22 provide any technical information about the City's search capabilities, agree to any  
23 process for obtaining responsive emails such as sampling or producing initial hit  
24 reports, or even provide Plaintiffs with any time frame for the production of  
25 responsive emails.

26 Unaided by the City, Plaintiffs provided the City with a list of initial search  
27 terms and custodians in November 2020, along with a proposed method for  
28



1 obtaining responsive documents, an offer to meet and confer about the terms, a  
2 request of the City to supplement with any missing terms and custodians, including  
3 Council District staff who were unknown to Plaintiffs at that time, and a request to  
4 provide Plaintiffs with a timeline for obtaining results of the searches. Myers Decl.  
5 ¶¶ 45, 48 & Exh. AB.

6 The City responded ten days later, stating only that it would run the search  
7 terms provided by Plaintiffs and would address the issues in the letter separately.  
8 *Id.* ¶¶ 45, 47 & Exh. AB. Three days later, the City responded with technical  
9 concerns about two of Plaintiffs' search terms. *Id.* ¶ 47 & Exh. AC. The City  
10 offered to run a search of the original terms and proposed limited terms, in order to  
11 address the technical issue, to which Plaintiffs agreed. *Id.* ¶ 50 Exh. AD at 2-3.  
12 Plaintiffs immediately provided alternative terms and offered to meet and confer  
13 about those terms. *Id.* Plaintiffs also expressed concern about the length of time it  
14 was taking to move the discovery forward and yet again, requested an estimated  
15 timeline from the City regarding the responses to the search terms. *Id.* ¶ 50, Exh.  
16 AD at 2.

17 In response, counsel for the City indicated that, contrary to her earlier email,  
18 she had actually intended to meet and confer about the proposed search terms. But  
19 because of Plaintiffs' "allegations of delay," she was no longer willing to do so,  
20 and instead would simply run the search terms as requested and then meet and  
21 confer later. *Id.* She also identified a number of additional issues with the  
22 proposed custodians, to which Plaintiffs offered to meet and confer. *Id.* Thereafter,  
23 the City simply did not respond.

24 On December 11, the City indicated that it had received responsive emails  
25 from the LAPD and stated that "once we get a better understanding of the  
26 document numbers and hit rate, we will let you know to what extent we believe the  
27 universe of documents for review should be limited." The City again refused to  
28

1 provide any update regarding the production of City emails, stating only that “we  
2 have put in the request to IT for LASAN and UHRC documents but do not have an  
3 estimated time of completion yet.” The City also stated that “we have made some  
4 progress identifying Council District staff but we do not have a list of staff  
5 members that might be appropriate custodians. We are diligently working on this  
6 and will get back to you in the next week or so with an update.” Myers Decl., ¶ 54,  
7 Exh. AH.

8 Almost three weeks later, on December 29, 2020, within a broader update on  
9 the outstanding discovery, the City responded only that “we are still working on  
10 the other categories of documents Plaintiffs requested, including . . . email  
11 communications, and will get back to you on these as soon as we can.” Myers  
12 Decl., Exh. AJ. This was the last communication from the City on this issue for  
13 over 45 days. The City never provided Plaintiffs with the hit reports regarding the  
14 alternative search terms Plaintiffs had agreed to, nor did the City follow up to  
15 address any the concerns it identified in its earlier emails.

16 On February 16, Plaintiffs requested the City provide an update on the email  
17 production, including the custodians the City used to search for City Council  
18 emails, and indicated their concern that the production was taking too long. Myers  
19 Decl., ¶ 57, Exh. AK. Fourteen days later, counsel for the City responded, stating  
20 that it was in the process of reviewing the LAPD emails and would be “producing  
21 responsive emails over the next few weeks as quickly as possible.” *Id.*, ¶ 58, Exh.  
22 AL. The City did not address the parties’ prior agreement to run alternative  
23 searches to reduce the number of false hits. The next day, the City produced  
24 approximately 1748 LAPD emails, the vast majority of which are mass emails that  
25 are sent daily to various members of the LAPD and City staff. *Id.*, ¶ 59. The City  
26 has not produced any additional emails since then.

1 With regards to the City emails, the City informed Plaintiffs that the results  
2 of the initial search was completed on February 18, but because of technical issues,  
3 the City was still not yet able to provide further information. The City also did not  
4 address which council staff it had identified as custodians.<sup>4</sup> Myers Decl., ¶ 58,  
5 Exh. AL.

6 Most problematic, the City yet again failed to provide any timeline for the  
7 completion of even this initial step, let alone the production of responsive  
8 documents. Instead, the Counsel for the City stated only that the parties would still  
9 need to meet and confer about ways to make the review manageable and  
10 proportional to the needs of the case.

11 **b. Defendant's Summary of Meet And Confer Efforts**

12 The City objects to, and requests that the Court strike, Plaintiffs' ten-page  
13 "Summary of Meet and Confer Efforts" on the ground that it violates L.R. 37-2.1,  
14 which limits the parties to an introductory statement of no more than three pages.  
15 The City refers the Court to the declarations of A. Patricia Ursea and Felix Lebron  
16 for a summary of the Parties' meet-and-confer history.

17 **III. SPECIFIC REQUESTS**

18 **REQUEST FOR PRODUCTION NO. 1:**

19 All DOCUMENTS that refer to or relate to any of the individual plaintiffs in  
20 this action.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

22 Defendant incorporates the General Objections as though fully set forth here.  
23 Defendant objects that the Request seeks documents that are not relevant to  
24 Plaintiff El-Bey's specific claims alleged in the Second Amended Complaint  
25

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26 <sup>4</sup> Because the City failed to respond to Plaintiffs' inquiry, it is unclear  
27 whether the City has simply chosen to run searches for emails based on its own list  
28 of City Council staff custodians, or whether it simply has not yet even begun to  
search for emails.

(Dkt. No. 42, “SAC”) for incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western insofar as the Request seeks documents relating to other individual plaintiffs. Defendant objects that the Request is overbroad to the extent that it seeks documents relating to any individual plaintiff other than Plaintiff El-Bey. Defendant objects to the Request to the extent it calls for production of confidential information, such as criminal records, referencing third parties or involving other individual plaintiffs. Defendant objects to the Request to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*15-17 (C.D. Cal. Sep. 9, 2013). Defendant objects that the Request is not proportional to the needs of the case, insofar as the burden or expense of searching for and producing any such proposed discovery outweighs the benefit of such information for Plaintiff El Bey’s specific claims alleged in the SAC. Subject to and without waiving these objections, Defendant responds as follows: Defendant previously produced non-privileged documents responsive to this Request and will produce additional non-privileged, responsive documents, if any, relating to Plaintiff El-Bey in Defendant’s possession, custody or control.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request seeks documents that are not relevant to Plaintiffs’ specific claims alleged in the Second Amended Complaint (Dkt. No. 42, “SAC”). Plaintiff El-Bey alleges claims for specific incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific

1 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
2 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
3 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
4 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
5 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
6 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
7 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
8 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
9 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
10 occurring on or around May 21, 2019 at Lomita and McCoy. Defendant objects to  
11 the Request to the extent it calls for production of confidential information, such as  
12 criminal records, referencing third parties or involving other individual plaintiffs.  
13 Defendant objects to the Request to the extent the Request seeks information  
14 protected from disclosure by the attorney-client privilege and or attorney work  
15 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
16 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
17 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
18 Sep. 9, 2013). Defendant objects that the Request is not proportional to the needs  
19 of the case, insofar as the burden or expense of searching for and producing any  
20 such proposed discovery outweighs the benefit of such information for individual  
21 Plaintiffs' specific claims alleged in the SAC. Subject to and without waiving these  
22 objections, Defendant responds as follows: Defendant previously produced non-  
23 privileged documents responsive to this Request and will produce additional non-  
24 privileged, responsive documents, if any, relating to individual Plaintiffs in  
25 Defendant's possession, custody or control.

**PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

**NO. 1:**

Plaintiffs seek documents in the City's possession, custody, or control that relate to the individual Plaintiffs in this case. The City has produced some documents responsive to this request, including documents submitted by Plaintiffs as part of this litigation (e.g., Government Tort Claims filed by Plaintiffs) and some police records related to Plaintiffs. Despite its myriad of general and specific documents, Defendant states it "will produce additional non-privileged, responsive documents, if any, relating to individual Plaintiffs in Defendant's possession, custody or control." Plaintiffs interpret this response to mean the City is withholding documents only on the basis of privilege and intends to otherwise produce any other documents in its possession, custody or control. However as discussed below, Defendant's written response is still insufficient, and Plaintiffs have identified documents the City has inexplicably failed to produce.

**a. Legal Standard**

Under the Federal Rules of Civil Procedure, "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(1). If a party fails to provide discovery materials covered by the broad scope of Rule 26, the party requesting those materials may move under Rule 37 "for an order compelling [their] disclosure or discovery." Fed. R. Civ. P. 37(a)(1). "Upon a motion to compel discovery, the movant has the initial burden of demonstrating relevance." *United States v. McGraw-Hill Cos.*, No. CV 13-779-DOC (JCGx), 2014 WL 1647385, at



\*8 (C.D. Cal. Apr. 15, 2014) (citations and internal quotation marks omitted). “Once the minimal showing or relevance is made, ‘[t]he party who resists discovery has the burden to show that discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.’” *Christian v. Cnty. of Los Angeles*, No. 2:18-cv-05792-CJC (JDEx), 2020 WL 4820006, at \*2 (C.D. Cal. Jan. 28, 2020) quoting *DIRECTV, Inc. v. Trone*, 209 F.R.D. 455, 458 (C.D. Cal. 2002); see also *Pitkin*, 2017 WL 6496565, at \*2 (citing *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975)).

**b. Relevance of Plaintiffs’ Request**

Discovery pursuant to Rule 26 “encompass[es] any matter that bears on, or that reasonably could lead to other matter[s] that could bear on, any issue that is or may be in the case.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). See also *Pitkin*, 2017 WL 6496565, at \*2. Rule 26 is “meant to be broadly construed” and relevance to be liberally applied. *Id. Accord In re: Am. Med. Sys., Inc.*, MDL No. 2325, 2016 WL 3077904, at \*4 (S.D. W.Va. May 31, 2016) (“it remains true that relevancy in discovery is broader than relevancy for purposes of admissibility at trial,” and, “notwithstanding Rule 26(b)(1)’s recent amendment placing an emphasis on the proportionality of discovery, the discovery rules, including Rule 26, are still to be accorded broad and liberal construction”). Therefore, evidence that is relevant to any party’s claim or defense is discoverable, unless it is unreasonably cumulative or duplicative, burdensome, or expensive. Fed. R. Civ. P. 26(b)(2)(C)(i).

Here, Plaintiffs seek documents the City has related to the individual Plaintiffs, which includes, for example, Plaintiffs’ interactions with Defendant. This includes interactions with LA Sanitation and LAPD related to the enforcement of LAMC 56.11. As such, documents responsive to this request would include Field Investigation (FI) cards, citation or arrest records, and



1 communications about or related to the individual Plaintiff. It would also include,  
2 for example, communications within City Council offices responsible for  
3 scheduling encampment cleanups, if those offices have knowledge of or discussed  
4 the individual Plaintiffs prior to conducting cleanups. Those discussions would be  
5 relevant to the City's decision to conduct specific cleanups. Moreover,  
6 Defendant's interactions with Plaintiffs are relevant to Plaintiffs' claims and  
7 Defendant's defenses, including for example, its defense of "unclean hands."  
8 Def's Answer to Plaintiffs SAC at p. 58.

9 **c. Defendant's Written Response is Insufficient**

10 Rule 34 requires that "[f]or each item or category, the response must either  
11 state that inspection and related activities will be permitted as requested or state  
12 with specificity the grounds for objecting to the request, including the reasons."  
13 Fed. R. Civ. P. 34(b)(2)(B). "An objection must state whether any responsive  
14 materials are being withheld on the basis of that objection," and "[a]n objection to  
15 part of a request must specify the part and permit inspection of the rest." Fed. R.  
16 Civ. P. 34(b)(2)(C); *Olmos v. Ryan*, No. CV-17-3665-PHX-GMS (JFM), 2020  
17 U.S. Dist. LEXIS 67701 at 38 (D. Ariz. Apr. 17, 2020); *Rivera v. Solofill LLC (In*  
18 *re Rivera)*, No. CV 16-4676 JAK (SSx), 2017 U.S. Dist. LEXIS 229538, at \*8  
19 (C.D. Cal. Apr. 14, 2017) (stating that a motion to compel may be granted where  
20 plaintiff can identify a specific document that has been withheld). "An evasive or  
21 incomplete disclosure, answer, or response must be treated as a failure to disclose,  
22 answer, or respond." *See* Fed. R. Civ. Pro. 34, 37; *Louen v. Twedt*, 236 F.R.D. 502,  
23 505 (E.D. Cal. 2006); *Advanced Visual Image Design, LLC v. Exist, Inc.*, No. 14-  
24 2525-JGB (KKx), 2015 WL 4934178, at \*3 (C.D. Cal. Aug. 18, 2015); *see also*  
25 *Duran v. Cisco Systems, Inc.*, 258 F.R.D. 375, 379-80 (C.D. Cal. 2009); *Fulfillium,*  
26 *Inc. v. Reshape Medical Inc.*, No. CV 17-8419-RGH (PLAx), 2018 WL 6118433 at  
27 \*3 (C.D. Cal. May 24, 2018) (noting that a party's failure to comply with Rule 34  
28

1 requirements in its written response is a sufficient basis to grant a motion to  
2 compel).

3 The City's written response fails to comply with Rule 34 for a number of  
4 reasons. First, in its amended responses, the City states that "Defendant previously  
5 produced non-privileged documents responsive to this Request and will produce  
6 addition non-privileged, responsive documents, if any, relating to individual  
7 Plaintiffs in Defendant's possession, custody or control." While the "if any"  
8 language added to the response could be interpreted as an unequivocal statement of  
9 its intention to produce all responsive documents in its possession, custody, or  
10 control, the City has in fact not produced all such documents. Below are examples  
11 of documents Plaintiffs have been able to identify, which are relevant to this case  
12 and responsive to this RFP but inexplicably have not been produced by Defendant:

- 13 • Documents related to arrests of at least two Plaintiffs (Janet Garcia and  
14 Pete Diocson) for violations of LAMC 56.11 in 2017 and 2018. In  
15 December 2020, the City produced a spreadsheet of arrests for violations  
16 of LAMC 56.11 which included the names of the individuals who were  
17 arrested. A simple search of the spreadsheet revealed that Janet Garcia  
18 was arrested for violations of LAMC 56.11 in 2017. Likewise, Pete  
19 Diocson was arrested for a violation of LAMC 56.11 in 2018. Myers  
20 Decl. ¶ 75. The City failed to produce any documents related to to these  
21 arrests, including, for example, the Notices to Appear issued to the  
22 Plaintiffs or other documents related to the arrests, even though these  
23 documents are both highly relevant and of the same type of document  
24 produced by the City in response to this request.
- 25 • **Field Investigation Cards for Marquis Ashley related to 56.11**  
26 **enforcement in May 2018.** When the LAPD conducts field interviews  
27 with individuals, the officer routinely fills out an FI card, which includes  
28

1 details about the individual. On March 5, 2021, Defendant produced a  
2 spreadsheet capturing the interactions of HOPE team officers from the  
3 Harbor Division with unhoused individuals in 2018. Mr. Ashley is listed  
4 twice on the spreadsheet, and the document indicates that the LAPD  
5 officers filled out an FI card in both instances. Neither FI card has been  
6 produced, even though the City produced other LAPD documents and a  
7 simple search of a spreadsheet indicates that these documents exist.<sup>5</sup>  
8 Myers Decl. ¶ 77.

9 The City's failure to produce these documents or even identify their  
10 existence to Plaintiffs is untenable, especially because the documents are similar to  
11 the documents produced by Defendant in this case and are directly related to the  
12 City's enforcement of LAMC 56.11, and it is another sufficient basis to grant this  
13 motion to compel. *See In re: Rivera*, 2017 U.S. Dist. LEXIS 229538, at \*8  
14 (motion to compel may be granted where plaintiff can identify a specific document  
15 that has been withheld).

16 Because the City failed to provide a compliant written response, it is  
17 impossible for Plaintiffs to know why the City has failed to produce these  
18 documents. *DeSilva v. Allergan USA, Inc.*, No. 8:19-cv-01606-JLS (JDEx), 2020  
19 WL 5947827, at \*7 (C.D. Cal. Sep 01, 2020) (compelling production of documents  
20 and responses compliant with Rule 34 and noting that vague responses that "leave  
21 [the propounding party] in the dark" . . . is precisely the situation Rule 34(b)(2) is  
22 designed to prevent."); *see also* 2015 Amendment Adv. Comm. Note to Fed. R.  
23 Civ. P. 34. (amendment to Rule 34(b)(2)(C) was added to "end the confusion that  
24 frequently arises when a producing party states several objections and still  
25 produces information.").

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26  
27 <sup>5</sup> The City did not produce similar spreadsheets for the other LAPD divisions  
28 where many of the other Plaintiffs reside; as such, Plaintiffs cannot search to see if  
the other plaintiffs are also listed.

1 Even after the parties met and conferred about the sufficiency of the City's  
2 written responses, the City produced amended responses which again failed to  
3 "state[s] whether any responsive materials are being withheld on the basis of" any  
4 of the City's objections. *See* Fed. R. Civ. P. 34(b)(2)(B) – (C). In doing so, the City  
5 fails to provide sufficient information to "alert other parties to the fact that  
6 documents have been withheld and thereby facilitate an informed discussion of the  
7 objection." 2015 Amendment Adv. Comm. Note to Fed. R. Civ. P. 34. *D.C. v. Cty.*  
8 *Of San Diego*, No. 3:15-cv-01868-MMA(NLS), 2016 U.S. Dist. LEXIS 197240, at  
9 \*5. (S.D. Cal. Oct. 07, 2016).

10 The City has also failed to identify whether it limited its search for  
11 responsive documents in any way based on the objections, for example, to specific  
12 City departments, custodians, etc. *See Advanced Visual Image Design, LLC*, 2015  
13 WL 4934178, at \*3 (finding that a party responding to a request for production  
14 "has a duty to make a reasonable inquiry to locate responsive documents and then  
15 to provide a complete, explicit response").

16 Finally, the City has failed to provide Plaintiffs a reasonable date certain by  
17 which it will complete its production of documents. In fact, it has refused to  
18 provide any timeline at all. This is not allowed under Rule 34(b)(2)(B), which  
19 requires the City to specifically identify a "reasonable time" it will produce  
20 responsive documents. Fed. R. Civ. Pro. 34(b)(2)(B); *see also* 2015 Amendment  
21 Adv. Comm. Note to Fed. R. Civ. P. 34 ("the production must be completed either  
22 by the time for inspection specified in the request or by another reasonable time  
23 specifically identified in the response. When it is necessary to make the  
24 production in stages the response should specify the beginning and end dates of the  
25 production.""). Plaintiffs have repeatedly requested a date certain under Rule 34 for  
26 the completion of production, in an attempt to avoid this motion practice, but  
27 Defendant has simply ignored this request. Instead, the City continues to engage in  
28

1 an interminable rolling production of documents, even though the requests were  
2 propounded in July 2020 (and provided to Defendant in October 2019). This is  
3 unacceptable under Rule 34. *Maiorano v. Home Depot USA, Inc.*, No. 16cv2862-  
4 BEN-MDD, 2017 WL 4792380, at \*2 (S.D. Cal. Oct. 24, 2017) (granting request  
5 to compel production of responsive documents within 21 days, based on the  
6 responding party's failure to provide any more detail other than a statement that it  
7 would produce "additional responsive documents"); *Fischer v. Forrest*, 14 Civ.  
8 1304 (PAE) (AJP), 14 Civ. 1307 (PAE)(AJP), 2017 WL 773694, at \*3 (S.D.N.Y.  
9 Feb. 28, 2017) (responses were deficient because they did not indicate when  
10 documents and ESI that defendants are producing will be produced). At this point,  
11 the City's delay in producing documents responsive to this request is inexplicable,  
12 especially since Defendant had this request since October 2019.

13 Despite repeated requests since July 2020 and an opportunity to amend its  
14 responses following a lengthy meet and confer process, the City utterly failed to  
15 provide responses that comply with Rule 34. "For this basis alone, [Plaintiffs']  
16 motion to compel further responses should be granted." *Fulfillium*, 2018 WL  
17 6118433, at \*3. *See also Louen*, 236 F.R.D. at 505.

18 **d. None of the City's other Objections Have Merit**

19 **i. Claims of privilege**

20 The City indicates in its response that it intends to produce "non-privileged"  
21 documents, but here too, the City has utterly failed to provide any further details of  
22 whether and to what extent it is withholding documents on the basis of privilege.

23 Parties withholding documents under a claim of privilege must identify and  
24 describe the documents in sufficient detail to "enable other parties to assess the  
25 claim." Fed. R. Civ. P. 26(b)(5). *See also DeSilva*, 2020 WL 5947827, at \*7. The  
26 most common way of satisfying this requirement is to serve a privilege log that  
27 numbers and describes each document or communication (or categories of such)  
28

1 and clarifies which privilege is claimed on what basis. *See* 2015 Amendment Adv.  
2 Comm. Note to Fed. R. Civ. P. 26(b); *Friends of Hope Valley v. Frederick Co.*,  
3 268 F.R.D. 643, 650-651 (E.D. Cal. 2010) (“The requisite detail for inclusion in a  
4 privilege log consists of [1] a description of responsive material withheld, [2] the  
5 identity and position of its author, [3] the date it was written, [4] the identity and  
6 position of all addressees and recipients, [5] the material’s present location, [6] and  
7 specific reasons for its being withheld, including the privilege invoked and the  
8 grounds thereof”).

9 Defendant has failed to comply with its obligations under Rule 26(b) and  
10 34(b)(2)(c). Other than asserting that the request calls for confidential or  
11 privileged documents, Defendant provides no additional information about whether  
12 and to what extent it is withholding documents on the basis of any claim of  
13 privilege. “Boilerplate objections or blanket refusals inserted into a response to a  
14 Rule 34 request for production of documents are insufficient to assert a privilege.”  
15 *Burlington Northern & Santa Fe Ry. Co. v. U.S. Dist. Court for Dist. of Mont.*, 408  
16 F.3d 1142, 1149 (9<sup>th</sup> Cir. 2005); *see also DeSilva*, 2020 WL 5947827, at \*2  
17 (citing *Sanchez v. Cty. of Sacramento Sheriff’s Dep’t*, No. 2:19-cv-01545 MCE  
18 AC, 2020 WL 3542328, at \*2 (E.D. Cal. June 30, 2020); *Loop AI Labs Inc.*  
19 *v. Gatti*, No. 15-cv-00798-HSG(DMR), 2016 WL 2908415, at \*3 (N.D. Cal. May  
20 13, 2016)).

21 Defendant objected to this request on the basis of privilege six months ago  
22 and provided amended responses four months ago. At no time has the City  
23 provided any further details about what documents, if any, it is withholding on the  
24 basis of privilege, despite numerous and repeated requests from Plaintiffs to do so.  
25 The City has simply ignored this request. This leaves Plaintiffs unable to assess  
26 even whether the City is withholding any documents on the basis of privilege, let  
27 alone the legitimacy of such a claim. Under *Burlington Northern & Santa Fe Ry.*  
28



1 Co., 48 F.3d at 1149, the City has long since waived these objections and should be  
2 compelled to produce all documents responsive to this request.

3 **ii. General objections**

4 In addition to objecting on the basis of privilege, the City objects on the  
5 basis of proportionality and incorporates by reference three pages of boilerplate  
6 general objections. The City inserts these general objections into every single one  
7 of its responses, without providing any basis for the specific objection or even an  
8 assessment of whether the objection specifically applies to the request. The use of  
9 boilerplate objections in this way is inappropriate and an abuse of the discovery  
10 process. *Polaris Innovations, Ltd. v. Kingston Tech. Co.*, No. CV 16-00300 CJC  
11 (RAOx), 2017 U.S. Dist. LEXIS 222261, at \*14-17 (C.D. Cal. Feb. 14, 2017). See  
12 also *United States v. Eisenhower Med. Ctr.*, No. EDCV 18-2667-RGK (KKx),  
13 2020 U.S. Dist. LEXIS 218716, at \*9 (C.D. Cal. Nov. 20, 2020) (citing *A. Farber*  
14 *& Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006) (faulting  
15 defendant for making “boilerplate objections to almost every single request for  
16 production, including broad relevancy objections, objections of ‘overly  
17 burdensome and harassing,’ ‘assumes facts not in evidence,’ privacy, and attorney-  
18 client privilege/work product protection”)).

19 In fact, the City’s boilerplate objections do not apply to this specific Request  
20 for Production (and further illustrate the extent to which this request is narrow and  
21 tailored to the needs of this case). General objections include, for example,  
22 objections “insofar as it seeks identification of all persons having knowledge of the  
23 information requested in the demand or the facts referred to in the response” and  
24 “insofar as it seeks identification of all writings which support the facts provided in  
25 responses to that demand.” In fact, some of the objections do not even apply to  
26 this litigation. One of the general objections states that “Defendant has made  
27 available for inspection and copying, the project files relating to the contract which  
28



1 is the subject of this litigation.” Of course, this litigation is not a contract dispute  
2 and there are no project files to be made available to Plaintiffs.

3 And even if they did apply, the City’s failure to identify which objection  
4 applies to this request, let alone the facts necessary to support its application,  
5 waives the objection. “Most of defendants’ objections are too general to merit  
6 consideration and are therefore waived.” *Ramirez v. County of Los Angeles*, 231  
7 F.R.D. 407, 409 (C.D. Cal. 2005). *See also, Bosley v. Valasco*, No. 1:14-cv-  
8 00049-MJS (PC), 2016 WL 1704159, at \*5, n. 3 (E.D. Cal. April 28, 2016)  
9 (Defendant waived blanket objections by failing to provide details of the objections  
10 as required by Rule 34(b)(2)(B)).

11 **e. Relief Requested**

12 Plaintiffs are entitled to an order compelling the City to produce all  
13 documents responsive to RFP No. 1 within 21 days. Plaintiffs also request the City  
14 provide a sworn affidavit attesting to the extent to which the City has searched for  
15 responsive documents and a complete, explicit response as to the finality of their  
16 production.

17 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
18 **NO. 1:**

19 The City produced documents in response to this Request, including  
20 Government Claims (CTY004316-4358) and LAPD criminal records, arrest  
21 reports, booking and identification records, Automated Field Data Reports, and  
22 printouts of search results conducted by first and last name (CTY006828-6962).  
23 Lebron Decl. ¶¶ 17, 21. Plaintiffs identify two RFC citations for violation issued  
24 in 2017 and 2018 and to Plaintiffs Garcia and Diocson and a 2018 Field  
25 Investigation Card for Plaintiff Ashley. Plaintiffs raised these documents for the  
26 first time in this Stipulation. Lebron Decl. ¶ 27. The City will collect and produce  
27 these documents before the hearing.  
28

1 Plaintiffs' contention that these documents are relevant and warrant a motion  
2 to compel is misplaced. No Plaintiff alleges that they were arrested or cited for  
3 violations of LAMC 56.11. Lebron Decl. ¶ 2, **Ex. 27**, SAC ¶¶ 173-231. Nor did  
4 Plaintiffs identify any such instances in response to interrogatories propounded by  
5 the City. Ursea Decl. ¶ 6-7, Exs. 5-6 (Pltfs' Interrogatory Responses). Plaintiffs  
6 are in the best position to identify their *own* arrests and citations. Moreover,  
7 Plaintiffs have not explained how these documents are relevant to their alleged  
8 claims. Lebron Decl. ¶ 2, **Ex. 27**, SAC ¶¶ 173-231; *Carrera v. First Am. Home*  
9 *Buyers Prot. Co.*, Case No. 13cv1585 H (WMc), 2014 U.S. Dist. LEXIS 190451,  
10 at \*7-8 (S.D. Cal. Jan. 29, 2014) (the purpose behind Rule 26(b)(1), which limits  
11 the scope of discoverable information to those matters relevant to a "claim or  
12 defense", is to "signal[] to the parties that they have no entitlement to discovery to  
13 develop new claims or defenses that are not already identified in the pleadings.').

14 Plaintiffs also contend that the City's response to RFP. No. 1 is deficient  
15 because the City has not stated whether it produced all responsive documents or  
16 produced a privilege log. During the meet-and-confer process, the City informed  
17 Plaintiffs that the City was still producing documents in response to the RFPs and  
18 would amend its responses after it completed its production to confirm whether all  
19 documents had been produced and whether any were withheld based on privilege.  
20 Lebron Decl. ¶ 12, **Ex. 37** (City's 9/25/20 M&C Letter) at p.11. This response was  
21 necessary because Plaintiffs demanded that the City's document production  
22 include any City emails that referenced any of the individual Plaintiffs' names. *Id.*  
23 The City objected to this request, but agreed to meet and confer with Plaintiffs  
24 regarding document custodians and search terms. *Id.*

25 The City first agreed to meet and confer with Plaintiffs on custodians and  
26 search terms for emails during the Parties Rule 26(f) conference conducted on July  
27 13, 2020. Lebron Decl. ¶ 16. On July 27, 2020, the Parties filed their Rule 26  
28

1 Joint Report, in which the City stated “Defendant has agreed to meet-and-confer  
2 regarding custodians and search terms regarding email communications, subject to  
3 Defendant’s objections regarding the scope, relevance, proportionality of  
4 Plaintiffs’ request and Defendant’s undue burden of production for such requested  
5 email communications.” Lebron Decl. ¶ 6, **Ex. 31**, (Rule 26(f) Joint Report, Dkt.  
6 No. 76) at p.14. On August 25, 2020, the Parties conducted a meet-and-confer call  
7 regarding the Plaintiffs’ RFPs and the City’s anticipated motion for a protective  
8 order. Lebron Decl. ¶ 19. During that call, the City agreed, again, to meet and  
9 confer with Plaintiffs regarding their proposed list of custodians and search terms,  
10 notwithstanding the City’s relevance, proportionality and burden objections  
11 addressed in detail in the City’s August 24, 2020 Meet-and-Confer Letter. *Id.*,  
12 Lebron Decl. ¶ 11; **Ex. 36** (City’s 8/24/20 M&C Letter). On September 25, 2020,  
13 the City produced additional documents and organization charts (CTY006828-  
14 7472), including additional organization charts that Plaintiffs claimed they needed  
15 for their proposed custodian list. Lebron Decl. ¶ 12; **Ex. 37** (City’s 9/25/20 M&C  
16 Letter) at p.10-11.

17 On November 24, 2020, Plaintiffs sent their proposed custodian and search  
18 terms to the City. Ursea Decl. ¶ 13. The Parties conducted additional meet-and-  
19 confer discussions regarding Plaintiffs’ requested search terms. *See* Ursea Decl. ¶¶  
20 14-19. For example, Plaintiffs proposed search terms like “hope” and “care” that  
21 are common in emails (e.g., “I hope you are well” or “take care”). *Id.* The City’s  
22 email searches conducted using Plaintiffs’ requested search terms and custodian  
23 list resulted in the collection of approximately 282 GB of raw data. Ursea Decl. ¶¶  
24 32, 34. This resulted in a total of over 500,000 emails/documents (approximately  
25 70,000 from LAPD custodians and 475,000 from non-LAPD custodians) *after*  
26 deduplication. Ursea Decl. ¶¶ 42-43. The City’s e-discovery vendor uploaded  
27  
28

1 approximately 475,000 non-LAPD custodian/search results on March 30, 2021.  
2 Ursea Decl. ¶ 43.

3 The City asserted objections based on attorney-client privilege to preserve  
4 its rights relating to these documents because, until the search was conducted and  
5 documents reviewed, the City would not know whether or not the search results  
6 yielded any responsive or privileged communications. The City has not withheld  
7 any documents on the basis of privilege for the documents responsive to RFP No.  
8 1, which includes Government Claims and LAPD criminal records. Plaintiffs'  
9 argument that the City waived attorney-client privilege because it did not produce  
10 a privilege log on over half a million documents that that the City has not reviewed  
11 (and were just recently uploaded by the City's e-discovery vendor) is unreasonable  
12 given the volume of documents and meet-and-confer history discussed above.  
13 Moreover, during meet-and-confer discussions with Plaintiffs' counsel regarding  
14 Plaintiffs' discovery responses to the City, the Parties discussed producing  
15 privilege logs after document productions concluded. Ursea Decl. ¶ 6.

16 Similarly, the City cannot provide amended responses confirming whether  
17 all documents have been produced or if any were withheld when Plaintiffs  
18 continue to demand such overly broad discovery. For this reason, the City  
19 informed Plaintiffs that the City would revisit amending the City's objections and  
20 responses after it completed its document production. Lebron Decl. ¶ 12, **Ex. 37**,  
21 at p.11 (City's 9/25/20 M&C Letter).

22 Nor are Plaintiffs entitled to a declaration regarding the City's search efforts.  
23 *Travelers Indem. Co. v. Trumpet, Inc.*, Case No. 8:19-cv-01036-PSG (JDEx), 2020  
24 U.S. Dist. LEXIS 166187, at \*45 (C.D. Cal. May 8, 2020) (denying plaintiffs'  
25 motion to compel defendant "to explain what it did to respond to these discovery  
26 requests" because "[n]either Rule 33 nor Rule 34 requires a party explain the steps  
27  
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1 it took to search for or inquire about relevant, responsive documents or  
2 information.”).

3 [Plaintiffs’ demand for email communications is not proportionate to the  
4 discovery needs of this case. Plaintiffs contend that there might be an email from  
5 City Council offices responsible for scheduling cleanups that discuss the individual  
6 Plaintiffs. Plaintiffs fail to explain how such an email (even if it existed) is  
7 relevant to the Plaintiffs’ alleged claims. Moreover, the burden and expense  
8 imposed on the City by this discovery demand significantly outweighs the benefit  
9 of such information in resolving the alleged claims and vastly exceeds Plaintiffs’  
10 alleged damages. *See Hoffman v. Cnty. of Los Angeles*, Case No. CV-15-03724-  
11 FMO (ASx), 2016 U.S. Dist. LEXIS 123515 \* (C.D. Cal. Jan. 5, 2016). Plaintiffs’  
12 Rule 26(a)(1) Initial Disclosures state that the individual Plaintiffs claim \$10,000  
13 in damages and Plaintiff El-Bey seeks statutory damages. *Lebron Decl.* ¶ 8, **Ex. 33**  
14 (Pltf’s Rule 26(a) Initial Disclosures). *See Welch v. Stratton*, Case No. 2:17-cv-  
15 0517 MCE KJN P, 2018 U.S. Dist. LEXIS 109389, at \*11-12 (E.D. Cal. June 28,  
16 2018) (“Plaintiff may not use discovery requests to engage in a fishing expedition  
17 in the hopes that he may turn up some relevant or useful information.”) (citing  
18 *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1072 (9th Cir. 2004). The Court should  
19 deny the motion to compel further responses to this request.  
20

21 **REQUEST FOR PRODUCTION NO. 2:**

22 All DOCUMENTS that refer or relate to ENCAMPMENT CLEANUPS  
23 conducted in the following areas between January 1, 2018 and the present:

- 24 (a) Between 8th St. and 5th St. to the North and South, and Mariposa and  
25 Hobart, to the East and West;  
26 (b) Aetna St., between Van Nuys Blvd. and Hazeltine Ave.;  
27 (c) Between Aetna and Delano St. to the North and South, and Kester  
28

Ave., and Van Nuys Blvd to the East and West;

(d) Figueroa, between 51st and 55th St.;

(e) Lomita Blvd. between Figueroa and Vermont, and McCoy S

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request seeks documents that are not relevant to Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks documents that are not relevant to any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff Ktown for All's ("KFA") claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant objects that the Request is overbroad and burdensome in seeking documents regarding encampment cleanups dating back two years and eight months that are unrelated, and not relevant, to Plaintiff El Bey's specific claims alleged in the SAC. Defendant also objects to the Request to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*



1 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
2 15-17 (C.D. Cal. Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing any such proposed discovery outweighs the benefit of such information  
6 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
7 search and producing documents greatly exceeds the amount in controversy for  
8 Plaintiff's alleged damages.

9 Specifically, in order to search for and obtain documents responsive to the  
10 Request, Defendant would need to search the City's Bureau of Sanitation  
11 ("LASAN") Watershed Protection Information Management System ("WPIMS")  
12 to identify all incidents constituting "encampment cleanups" as defined in the  
13 Request. Defendant identified 32,730 incidents within WPIMS constituting  
14 "encampment cleanups" as defined in the Request for the period from January 1,  
15 2018 to July 31, 2020. Defendant would have to conduct a query and search  
16 parameters within WPIMS to generate a report identifying all 32,730 incidents by  
17 the address listed for the encampment cleanup, date, and incident/case number.  
18 Defendant would then have to manually review the addresses identified within the  
19 report to confirm which addresses fall within the location areas identified in  
20 subsections (a)-(e) of the Request. Defendant would then need to identify each  
21 incident/case number falling within these geographical locations to collect  
22 documents relating to each identified encampment cleanup. For each identified  
23 incident number, Defendant would need to generate reports within WPIMS for the  
24 encampment cleanup, and collect associated health hazard checklists. Defendant  
25 would then have to conduct additional searches for encampment cleanup pictures  
26 and media files by incident number that are not stored on WPIMS. The number of  
27 pictures associated with an encampment cleanup could exceed over 700 pictures  
28

1 for one incident report. Defendant would also have to manually search for, collect,  
2 and assemble related documents by incident number, including any posting  
3 surveys, hazardous-waste disposal records, non-hazardous waste disposal records,  
4 and cleanup authorizations maintained in LASAN's Authorization Management  
5 System ("AMS"). In addition, upon identifying specified incident/case numbers for  
6 responsive encampment cleanups, Defendant would then have to conduct searches  
7 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
8 officers by corresponding date, location, and LAPD Bureau, including searches for  
9 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
10 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
11 addition, Defendant would have to search for LAPD body worn video that may  
12 exist for identified incidents involving LAPD HOPE Officers and review such  
13 video for responsiveness to the Request. Defendant previously conducted a search  
14 for and produced such incident-specific documents for the named individual  
15 plaintiffs' specific incidents at CITY00001-2677.

16 Defendant would also need to search for potentially responsive documents  
17 or information for encampment cleanups as defined in the Request that may be  
18 maintained within LASAN's Customer Service Group's MyLA database for  
19 service requests. Defendant would have to conduct a search parameter for service  
20 requests relating to encampment cleanups as defined in the Request for the period  
21 from January 1, 2018 to the present and generate a report identifying service  
22 requests for defined encampment cleanups by location address and date range.  
23 Defendant would then need an analyst to manually review MyLA data and cross-  
24 reference incident/case numbers, addresses, and dates identified by Defendant's  
25 WPIMS query to determine potentially corresponding service requests for  
26 identified encampment cleanups. Defendant would then have to prepare a separate  
27 report containing identified service requests within the MyLA database  
28

1 corresponding to identified WPIMS incident/case numbers for encampment  
2 cleanups. In addition, for cleanups occurring after October 2019, Defendant would  
3 have to conduct searches for potentially responsive documents within the City's  
4 daily schedules issued for CARE and CARE+ operations by reviewing schedules  
5 and cross referencing the schedules with identified incident/case numbers, dates,  
6 and locations. Defendant objects that the Request seeks documents that are not  
7 reasonably accessible based on the undue burden and costs associated with  
8 searching for and producing documents responsive to this Request for the reasons  
9 described above. Without waiving any, and based on these, objections, no  
10 documents will be produced in response to this Request.

11 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

12 Defendant incorporates the General Objections as though fully set forth here.  
13 Defendant objects that the Request seeks documents that are not relevant to  
14 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
15 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
16 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
17 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
18 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
19 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
20 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
21 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
22 at 6th Street and Ardmere and on or around June 11, 2019 at 5th Street and  
23 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
24 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
25 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
26 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
27 occurring on or around May 21, 2019 at Lomita and McCoy. Defendant further  
28

1 objects that the Request seeks documents that are not relevant to any named-  
2 plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff Ktown for All's  
3 ("KFA") claims seeking any declaration that the City unconstitutionally applied  
4 LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at  
5 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a  
6 ruling that the City's policies and practices are unconstitutional and not that each  
7 past application of those policies and practices to its members was  
8 unconstitutional."). Defendant also objects that the proposed discovery is not  
9 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
10 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
11 to hold the City liable under *Monell*"). Defendant objects that the Request is  
12 overbroad and burdensome in seeking documents regarding encampment cleanups  
13 dating back two years and eight months that are unrelated, and not relevant, to  
14 Plaintiffs' specific claims alleged in the SAC. Defendant also objects to the  
15 Request to the extent the Request seeks information protected from disclosure by  
16 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
17 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
18 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
19 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

20 Specifically, in order to search for and obtain documents responsive to the  
21 Request, Defendant would need to search the City's Bureau of Sanitation  
22 ("LASAN") Watershed Protection Information Management System ("WPIMS")  
23 to identify all incidents constituting "encampment cleanups" as defined in the  
24 Request. Defendant identified 32,730 incidents within WPIMS constituting  
25 "encampment cleanups" as defined in the Request for the period from January 1,  
26 2018 to July 31, 2020. Defendant would have to conduct a query and search  
27 parameters within WPIMS to generate a report identifying all 32,730 incidents by  
28

1 the address listed for the encampment cleanup, date, and incident/case number.  
2 Defendant would then have to manually review the addresses identified within the  
3 report to confirm which addresses fall within the location areas identified in  
4 subsections (a)-(e) of the Request. Defendant would then need to identify each  
5 incident/case number falling within these geographical locations to collect  
6 documents relating to each identified encampment cleanup. For each identified  
7 incident number, Defendant would need to generate reports within WPIMS for the  
8 encampment cleanup, and collect associated health hazard checklists. Defendant  
9 would then have to conduct additional searches for encampment cleanup pictures  
10 and media files by incident number that are not stored on WPIMS. The number of  
11 pictures associated with an encampment cleanup could exceed over 700 pictures  
12 for one incident report. Defendant would also have to manually search for, collect,  
13 and assemble related documents by incident number, including any posting  
14 surveys, hazardous-waste disposal records, non-hazardous waste disposal records,  
15 and cleanup authorizations maintained in LASAN's Authorization Management  
16 System ("AMS"). In addition, upon identifying specified incident/case numbers for  
17 responsive encampment cleanups, Defendant would then have to conduct searches  
18 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
19 officers by corresponding date, location, and LAPD Bureau, including searches for  
20 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
21 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
22 addition, Defendant would have to search for LAPD body worn video that may  
23 exist for identified incidents involving LAPD HOPE Officers and review such  
24 video for responsiveness to the Request. Defendant previously conducted a search  
25 for and produced such incident-specific documents for the named individual  
26 plaintiffs' specific incidents at CITY00001-2677.

1 Defendant would also need to search for potentially responsive documents  
2 or information for encampment cleanups as defined in the Request that may be  
3 maintained within LASAN's Customer Service Group's MyLA database for  
4 service requests. Defendant would have to conduct a search parameter for service  
5 requests relating to encampment cleanups as defined in the Request for the period  
6 from January 1, 2018 to the present and generate a report identifying service  
7 requests for defined encampment cleanups by location address and date range.  
8 Defendant would then need an analyst to manually review MyLA data and cross-  
9 reference incident/case numbers, addresses, and dates identified by Defendant's  
10 WPIMS query to determine potentially corresponding service requests for  
11 identified encampment cleanups. Defendant would then have to prepare a separate  
12 report containing identified service requests within the MyLA database  
13 corresponding to identified WPIMS incident/case numbers for encampment  
14 cleanups. In addition, for cleanups occurring after October 2019, Defendant would  
15 have to conduct searches for potentially responsive documents within the City's  
16 daily schedules issued for CARE and CARE+ operations by reviewing schedules  
17 and cross referencing the schedules with identified incident/case numbers, dates,  
18 and locations. Defendant objects that the Request seeks documents that are not  
19 reasonably accessible based on the undue burden and costs associated with  
20 searching for and producing documents responsive to this Request for the reasons  
21 described above. Without waiving any, and based on these, objections, no  
22 documents will be produced in response to this Request.

23 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

24 **NO. 2:**

25 Plaintiffs seek documents related to Encampment Cleanups conducted in the  
26 specific areas where the individual Plaintiffs were living, beginning just one year  
27 prior to the Specific Incidents, and continuing through to the present. This request  
28



1 includes both documents related to the Specific Incidents, as well as other cleanups  
2 that occurred where Plaintiffs were living.<sup>6</sup> Because the City does not track  
3 Cleanups or even the impounding of property by the names of the individuals  
4 whose belongings are seized and/or destroyed, the only way to obtain evidence of  
5 the other cleanups Plaintiffs have experienced is by location of the cleanup.

6 Although the City has agreed that documents related to the Specific  
7 Incidents must be produced, the City has put forth a convoluted set of objections  
8 and a misleading written response to this request. It has also withheld critically  
9 important documents, even after representing to Plaintiffs and this Court that the  
10 documents had been produced. The City's misrepresentations and failure to  
11 produce even these basic documents is untenable.

12 **a. The Documents Sought Are Highly Relevant To This Case**

13 Plaintiffs seek documentation of the cleanups that have occurred at the  
14 specific locations where the individual Plaintiffs have been residing. This includes  
15 all documents related to the Specific Incidents enumerated and described in the  
16 complaint, as well as other cleanups that occurred at the locations where Plaintiffs  
17 resided. These documents are both highly relevant to establish that Plaintiffs'  
18 constitutional rights were violated as well as to establish the existence of customs,  
19 practices, and policies for *Monell* liability and for prospective relief.

20 First, the individual plaintiffs in this case allege they were each subjected to  
21 cleanup that resulted in the violation of their constitutional rights on numerous  
22 occasions. This includes both the Specific Incidents enumerated in the complaint  
23

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24 <sup>6</sup> Documents Plaintiffs seek include 1) health hazard assessment reports and  
25 checklists; 2) photographs; 3) posting surveys, which document when notices were  
26 posted related to these cleanups as well as how the encampments looked prior to  
27 the cleanups; 4) Encampment Online Authorization forms for scheduled  
28 Comprehensive Cleanups; 6) communications regarding the cleanups; and 7)  
LAPD documents related to the cleanups. All of these documents are created by  
Defendant for each of the cleanups it conducts and each contains highly relevant  
evidence of what occurs during an encampment cleanup.

1 as well as other occasions. *See, e.g.*, SAC ¶¶ 28, 30, 32, 42, 147, 184 (Dkt. 43).  
2 Plaintiffs are seeking discovery to help identify the dates of those other incidents.  
3 Plaintiffs also allege that the cleanups are ongoing and the City continues to  
4 enforce LAMC 56.11, which as a result, continues to result in the deprivation of  
5 their constitutional rights. To the extent they and in the case of Ktown for All,  
6 their members, remain subject to these cleanups, they remain an imminent threat of  
7 further harm. This is spelled out explicitly in the complaint. These allegations  
8 form the basis for Plaintiffs’ request for prospective relief and support its *Monell*  
9 claims. The allegation of other past cleanups and the prospect of future cleanups  
10 also support the individual Plaintiffs’ claims for damages.

11 Second, as discussed above, documentary evidence of other cleanups is  
12 unquestionably relevant to the issue of whether the City has customs, policies, and  
13 practices that violate the U.S. and California Constitution, which is necessary both  
14 for Plaintiffs’ claims for prospective relief under the Declaratory Judgments Act  
15 and to establish a custom, pattern, or practice, for purposes of *Monell* liability. *See*  
16 *e.g., Pitkin v. Corizon Health, Inc.*, 2017 U.S. Dist. LEXIS 208058, \*14-15. *See*  
17 *also* Myers Decl., Exh. L, June Order at 8 (Ktown for All may rely on other  
18 cleanups as evidence of the City’s customs, practices, and policies).

19 Even though evidence of other constitutional violations is exactly the type of  
20 evidence frequently relied on to establish a widespread and longstanding custom or  
21 practice, Defendant has steadfastly maintained a legally indefensible position that  
22 “the proposed discovery is not relevant to establishing *Monell* liability for the  
23 claims alleged in the SAC.” To defend this indefensible position, Defendant takes  
24 wholly out of context a single statement in which Plaintiff KFA states matter-of-  
25 factly that “a lawsuit raising a single incident may be used to hold the City liable  
26 under *Monell* if the incident is part of an official pattern, practice or policy.”  
27 Myers Decl., Exh. K. This is unquestionably true—most claims under Section  
28

1 1983 arise from only a single incident experienced by the Plaintiff. But this says  
2 nothing about the use of other instances of similar violations as *evidence* to prove  
3 the existence of that “pattern, practice or policy,” which is what Plaintiffs seek  
4 here. In fact, the next paragraph of Plaintiffs’ brief makes that exact point: “The  
5 City’s argument regarding the necessity of Ktown for All members’ participation  
6 conflates their role as parties and the role of some members as evidentiary  
7 witnesses.” *Id.* (citing *e.g.*, *Ass’n of Am. Physicians & Surgeons, Inc. v. Texas*  
8 *Med. Bd.*, 627 F.3d 547, 552 (5th Cir. 2010) (organization had standing to bring  
9 claim on behalf of members, even though complaint alleged individual abuses,  
10 since, if practiced systemically, they could establish constitutional violation and  
11 noting that “proof of misdeeds could establish a pattern with evidence from the  
12 Board’s witnesses and files and from a small but significant sample of  
13 physicians”); *Nebraska Beef Producers Committee v. Nebraska Brand Committee*,  
14 287 F.Supp.3d 740, 750 (D. Neb. 2018) (“Were this case to proceed, it might be  
15 necessary for individual members of the Beef Producers to participate as witnesses,  
16 but it would not be necessary for them to participate as parties—and that is all that  
17 associational standing requires”)). And this point is also made by the District  
18 Court, which notes that “KFA may permissibly rely on participation of some  
19 members to establish the existence of a certain policy or practice without running  
20 afoul of the third *Hunt* prong.” Myers Dec., Exh. L, June Order at 8; 5 (citing  
21 *Hospital Council of W. Pennsylvania v. City of Pittsburgh*, 949 F.2d 83, 89-90).

22 Finally, evidence of other cleanups is relevant for impeachment purposes.  
23 *Estate of Ernesto Flores v. Cty. Of San Bernardino*, No. EDCV 15-2202-  
24 GW(KKx), WL 3297507, at \*6 (C.D. Cal. Aug. 2, 2017) (granting plaintiff’s  
25 motion to compel because the production of the documents could lead to  
26 admissible impeachment evidence); *Paulsen v. Case Corp.*, 168 F.R.D. 285, 289  
27 (C.D. Cal. 1996) (“Apart from whether the documents may be admissible at trial as  
28

1 part of the plaintiff's case-in-chief, they certainly may be used for impeachment  
2 purposes . . . . [T]here is no merit to defendant corporation's relevancy objection.")

3 **b. The City Continues to Withhold Documentation Related To The**  
4 **Specific Incidents**

5 Despite the City's blanket objection and stated refusal to produce documents  
6 responsive to this request, the City has long agreed to produce documents related  
7 to the Specific Incidents. In fact, the City agreed to produce these documents  
8 months before the start of formal discovery. These documents were purportedly  
9 produced by the City in October 2019, and in February 2020, Defendant  
10 represented to Plaintiffs and this Court that it had produced documentation related  
11 to all of the Specific Incidents.

12 In fact, as described below, the City has withheld a significant number of  
13 documents related to the Specific Incidents, including documents the City  
14 explicitly informed this Court it had produced. The City's incomplete production  
15 evidences a total disregard for the City's obligation to search for and produce  
16 unquestionably relevant documents. *See In re Citimortgage, Inc. Home Affordable*  
17 *Modification Program Litigation*, No. MDL 11-2274-DSF (PLAx), 2012 WL  
18 10450139 at \*4 (C.D. Cal. June 07, 2012) (outlining what generally constitutes a  
19 "reasonable inquiry").

20 **i. Documents related to Mr. Haugabrook's Specific**  
21 **Incidents**

22 Plaintiff James Haugabrook alleges that his property was taken in violation  
23 of his constitutional rights on at least four occasions in 2019, including in March  
24 and April 2019. *See* SAC ¶¶ 192-208 (Dkt. 43). *See also* Myers Decl., Exh. L,  
25 February Order at 31 (finding that Mr. Haugabrook alleged "[t]hat the four  
26 cleanups occurred over a three-month period in a specific area provides sufficient  
27 notice for the City to investigate the allegations."). He also alleges that his  
28 neighbor's property was taken in June 2019 as a result of the City's practices.

1 SAC, Dkt. 58 at ¶ 207. Yet the City has not produced any documentation related  
2 to Mr. Haugabrook's claims. Instead, the City represented to this Court that no  
3 such documents exist. As outlined below, the City's own records show that this is  
4 false.

5 In October 2019, the City produced documents related to the other Specific  
6 Incidents but failed to produce any documents related to Mr. Haugabrook. Instead,  
7 the City moved to dismiss Mr. Haugabrook's claims under Rule 8. When  
8 Plaintiffs raised the City's failure to produce responsive documents related to Mr.  
9 Haugabrook's allegations, Counsel for Defendant responded that there were no  
10 records that the cleanups occurred and went so far as to suggest that "the City is  
11 assessing this absence of evidence and what appears to be a failure to investigate  
12 the basis of Mr. Haugabrook's claims before filing suit."

13 Shortly thereafter, the City produced documents for 22 cleanups, which  
14 counsel for the City represented were reports for every cleanup that occurred in  
15 "South Los Angeles" in March 2019. Myers Decl., Exh. F. According to the City,  
16 these documents were produced "so Plaintiffs can reassess Haugabrook's claim,  
17 which the City has moved to dismiss" and that the documents were produced to  
18 "expedite Mr. Haugabrook's dismissal." *Id.* The City provided no explanation  
19 why it was focusing only on March 2019 instead of the other dates in the  
20 complaint, and it failed to identify what it considered "South Los Angeles" or how  
21 it identified these specific cleanups. The documents it produced covered a roughly  
22 30 square mile area of the City (excluding two of the cleanups which did not occur  
23 anywhere near any area of the City that could be considered South LA at all). *See*  
24 Myers Decl. ¶ 66, Exh. AP. None of the reports were for cleanups that occurred  
25 even remotely close to Mr. Haugabrook. The closest location was almost a mile  
26 away; the furthest was nearly 10 miles away. *Id.*, ¶ 67.

1 In January 2020, Plaintiffs moved to compel early discovery. In opposition  
2 to the motion, Defendant represented to this Court that the reports it had produced  
3 constituted “reports by the Sanitation Bureau for **all** cleanups conducted in South  
4 LA in March 2019.” Myers Decl., Exh. G; *see also* Declaration of Patricia Ursea,  
5 *Id.* According to the City, it produced these documents because “it was unable to  
6 locate any incident specific documents corresponding to Plaintiff Haugabrook’s  
7 vague allegation that his belongings were seized and destroyed in ‘March 2019’ at  
8 or around ‘Figueroa St., between 53rd St. and 52nd Place.’” *Id.* (quoting Dkt. 20 at  
9 44:1-2-3; 10-11.) According to Defense Counsel, these 22 reports constituted “**all**  
10 reports for **all** cleanups in the surrounding area (South Los Angeles).” *Id.*  
11 (emphasis added).

12 This is patently untrue. In fact, according to the City’s own documentation,  
13 which it finally produced to Plaintiffs in December 2020, after months of delay,  
14 there were actually more than 50 cleanups conducted in March 2019 in Council  
15 District 9,<sup>7</sup> which the City failed to identify, let alone produce responsive  
16 documents. *See* Myers Decl. ¶ 69.

17 And most troubling, despite the City’s representation to Plaintiffs that “the  
18 incident [alleged by Mr. Haugabrook] either did not occur or, if it did, the incident  
19 occurred at a different location, on a different date, or both,” Myers Decl. ¶11,  
20 Exh. F, the City’s own evidence shows that the City did in fact conduct cleanups in  
21 March 2019 at the precise location where Mr. Haugabrook stated the cleanups  
22 occurred. *See* Myers Decl., ¶ 70. According to data the the City had for months  
23 refused to produce,<sup>8</sup> there were 30 cleanups at this location in March 2019. *Id.* This  
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25 <sup>7</sup> The 22 reports produced by the City in October 2019 included reports from  
26 five council districts: Districts 8, 9, 10 14, and 15.

27 <sup>8</sup> Plaintiffs requested this data as part of this set of RFPs. Defendant initially  
28 refused to produce this data on the ground that it was not relevant to Plaintiffs’  
claims and was too burdensome to produce. The City inexplicably agreed to



1 was confirmed by the City in its amended response to Plaintiffs' Interrogatories, in  
2 which the City admitted that cleanups occurred at 52<sup>nd</sup> Place on March 21, 2019, as  
3 alleged by Mr. Haugabrook. *See* Myers Decl., ¶ 61, Exh. AN.

4 Not a single one of these reports has been produced to Plaintiffs, and none  
5 were produced to Plaintiffs before attorneys for the City represented to this Court  
6 in a sworn declaration that they had produced "*all* reports for *all* cleanups in the  
7 surrounding area (South Los Angeles)." Myers Decl., Exh. H. In fact, even after  
8 the City identified the March 21, 2019 cleanups at 52<sup>nd</sup> Place in response to  
9 Plaintiffs' interrogatories, Set One, the City has failed to produce these documents.

10 And this is only with regards to one of Mr. Haugabrook's specific  
11 allegations. The City has inexplicably limited its production of documents to  
12 March 2019, even though Mr. Haugabrook clearly alleged that his property was  
13 taken on other occasions after March 2019. *See e.g.*, SAC ¶¶ 195, 199, 203, and  
14 207 (Dkt. 43). In fact, the District Court specifically noted that "Haugabrook  
15 alleges that he was subject to cleanups '[o]n or about March 2019,' '[a]bout a  
16 month later,' '[o]n yet another occasion,' and '[o]n or about June 24, 2019.'"  
17 Myers Decl., Exh. I, February Order at 31. The Court therefore ruled "[t]hat the  
18 four cleanups occurred over a three-month period in a specific area provides  
19 sufficient notice for the City to investigate the allegations." *Id.* Despite this ruling  
20 from the District Court, the City has still refused to produce any further documents  
21 related to Mr. Haugabrook's allegations.

22 There is simply no excuse for the City's material misrepresentations to this  
23 Court and to Plaintiffs and the withholding of documentation for more than fifteen  
24 months. The City has denied the existence of that documentation, and even went  
25 so far as to suggest Plaintiffs' counsel had committed a sanctionable offense, in an  
26 attempt to force Mr. Haugabrook to dismiss his claims. Yet all the while, the City

27 \_\_\_\_\_  
28 produce this data in November 2020 and finally produced a spreadsheet on  
December 18, 2020.

1 has been withholding evidence that specifically shows that cleanups occurred  
2 exactly when and where Mr. Haugabrook said they occurred.

3 **ii. Documents related to Miriam Zamora and Gladys**  
4 **Zepeda's Specific Incidents**

5 This conduct is not limited to Mr. Haugabrook's allegations. Plaintiffs Jane  
6 Zepeda and Miriam Zamora allege that their property was taken on numerous  
7 occasions, including on March 21, 2019 and June 11, 2019 from their locations  
8 first at 6<sup>th</sup> and Ardmore and then at 5<sup>th</sup> and Harvard in the Koreatown  
9 neighborhood of Los Angeles.

10 In October 2019, when the City produced documentation for other Specific  
11 Incidents, the City produced documentation for a number of discrete cleanups that  
12 occurred on June 11, 2019 in the vicinity of Fifth and Harvard. Yet they did not  
13 produce a single document for a cleanup that corresponded to the one alleged in  
14 the complaint. Likewise, the City produced documentation for a cleanup that  
15 occurred at 6<sup>th</sup> and Kingsley on March 21, 2019, but none for a cleanup that  
16 corresponded to Plaintiffs' allegations. Again, they represented to this Court and  
17 to Plaintiffs that they were producing documentation of all of the Specific  
18 Incidents alleged in the complaint. *See* Myers Decl., ¶ 7 & Exh. D; ¶ 17 & Exh. H.

19 In December 2020, Defendants finally produced data from the City's  
20 databases, which shows that the City has records of a cleanup occurring on June  
21 11, 2019, exactly as Plaintiffs alleged.

22 Then, in February 2021, eighteen months after the case was filed and sixteen  
23 months after representing to this Court that the City had produced all documents  
24 for all Specific Incidents alleged in the complaint, the City simply produced,  
25 without comment, a Health Hazard Assessment form and more than 100 photos of  
26 the cleanup on June 11, 2019 at the location alleged in the complaint. The City has  
27 provided no explanation for its failure to produce these documents earlier. And the  
28

1 City still has not produced, for example, LAPD documents related to this specific  
2 cleanup.

3 **iii. Missing categories of documents for all cleanups**

4 The City has also failed to identify, let alone produce, whole categories of  
5 documents the City creates for each cleanup. The City creates Encampment Online  
6 Authorization forms for noticed cleanups. *See* Riskin Decl. ¶ 5, Exh. A. The  
7 documentation includes crucial information, including the names of the City  
8 officials who authorized the cleanup and when, the “polygon” of the cleanup  
9 (which is the area covered by the cleanup), and before photos of the area.

10 Despite the relevance and the responsiveness of this document, the City has  
11 failed to produce the documents for any of the Specific Incidents. In fact, the City  
12 failed to even identify the existence of this document in response to Plaintiffs’  
13 request for an exemplar of each of the forms used by the City related to  
14 encampment cleanups. *See* RFP 21 (requesting one copy of each form used by the  
15 CITY or any of its contractors or subcontractors, including Chrysalis, LAHSA, and  
16 Clean Harbors, related to ENCAMPMENT CLEANUPS). This document is of the  
17 same kind as other documents the City did produce, both as exemplars and as  
18 documents specifically related to the individual incidents. Yet the City failed to  
19 identify its existence, let alone produce the discrete forms for each of the cleanups.  
20 In fact, Plaintiffs are aware this document exists only because the City produced it  
21 to a third party in response to a Public Records Act request.<sup>9</sup> Plaintiffs have  
22

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23 <sup>9</sup> The City also withheld “Operations/Daily Assignment sheets” for the  
24 Specific Incidents until December 2020. This document contains highly relevant  
25 information about the cleanups, but the City failed to disclose them along with the  
26 rest of the forms and reports it produced, either as an exemplar in response to RFPs  
27 23 along with the documents produced related to the Specific Incident documents.  
28 Myers Decl. ¶ 73. Plaintiffs were able to identify the existence of this document  
only because the City produced the document along with the documentation of the  
South LA cleanups. *Id.* When Plaintiffs alerted Defendant that they were aware  
this document existed and raised concerns that it had not been produced for even  
the Specific Incidents, the City refused to provide any explanation why it produced  
the document for the South LA cleanups but not the Specific Incidents, or why it

1 repeatedly asked about these documents, but the City has simply failed to produce  
2 them. Myers Decl., ¶ 43.

3 Although Plaintiffs have repeatedly informed the City of its failure to  
4 produce these documents, the City has simply not responded to Plaintiffs' inquiries  
5 about these responsive documents.

6 The City has also produced only a handful of scheduling documents for the  
7 Specific Incidents. At the time these incidents occurred, the City created daily  
8 "Rapid Response" schedules for each day, as well as HE/ID ("Homeless  
9 encampment/Illegally Dumping") confirmation sheets. These documents contain  
10 valuable information about the cleanups, including the other encampment cleanups  
11 that were conducted on the same day, the projected length of each cleanup, an  
12 assessment of the cleanup, and the status of authorizations for each cleanup.  
13 Again, the City has not disclosed the existence of these documents, let alone  
14 produced the documents related to all of the Specific Incidents. As with the Online  
15 Authorization documents, the City has produced these documents to a third party  
16 pursuant to the California Public Records Act, Cal. Gov't Code § 6250 et seq.  
17 ("CPRA"); see Riskin Decl. ¶ 5, Exh. A, and now because the City has begun  
18 producing the documents as part of its production of LAPD emails.

19 **c. Plaintiffs' Request for All Documents Related to Additional**  
20 **Cleanups in These Specific Locations is Proportional to the Needs**  
21 **of the Case**

22 The City objects that producing documents related to cleanups that were  
23 conducted where Plaintiffs were residing but are not specifically enumerated in the  
24 complaint is burdensome and not proportional to the needs of this case. There is

25 failed to provide this document along with the other forms responsive to RFPs 23.  
26 Myers Decl. ¶ 43. Instead, in December 2020 the City simply produced the  
27 documents for the dates of eight of the nine Specific Incidents, as well as produced  
28 duplicates of the eight copies the City had already produced for the South LA  
Cleanups. Myers Decl. ¶ 73. Had the City not produced these documents as part of  
its South LA Cleanup production, Plaintiffs would have had no way of knowing  
the documents even existed, which raises serious questions about the City's  
production of responsive documents. See *Maiorano*, 2017 WL 4792380, at \*2.

1 no merit to this objection. While discovery must be proportional, “considering the  
2 importance of the issues at stake in the action, the amount in controversy, the  
3 parties’ relative access to relevant information, the parties’ resources, the  
4 importance of the discovery in resolving the issues, and whether the burden or  
5 expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. Pro.  
6 26(b)(1), this request is both temporally and geographically limited and tailored to  
7 the needs of the case. As such, the factors weigh heavily in favor of Plaintiffs.

8 **i. Importance of the issues at stake in the action**

9 Plaintiffs brought this civil rights lawsuit to put an end to the City’s  
10 longstanding and widespread practice of seizing and destroying the belongings that  
11 unhoused people use to survive on the streets, in violation of their fundamental  
12 rights under the United States and California Constitutions. Plaintiffs allege that  
13 these violations are part of a widespread and longstanding practice of the City of  
14 Los Angeles to violate unhoused people’s constitutional rights. By the City’s own  
15 admission, the activities Plaintiffs allege violate the Constitution continue to occur  
16 numerous times every day.

17 To diminish the impact of this case (and therefore, its potential discovery  
18 obligations), the City has consistently and willfully misrepresented the issues at  
19 stake in this case as well as the importance of those issues. The City attempts to  
20 relegate this case to a low dollar damages case based on past harms. First, to the  
21 extent the individual Plaintiffs do bring damages claims based on past incidents,  
22 the City underestimates the significance of Plaintiffs’ allegations and of those  
23 harms to Plaintiffs. This case is not simply about the loss of property, but instead,  
24 about the violation of Plaintiffs’ constitutional rights. “Subversion of the  
25 protections afforded citizens by the Constitution is always an important issue and  
26 should never be taken lightly.” *Hoffman v. Cnty. Of L.A.*, No. CV 15-03724-FMO  
27 (ASx), 2016 U.S. Dist. LEXIS 123515, \*15 (C.D. Cal. Jan. 5, 2016) (in balancing  
28

1 proportionality factors, the court found that the importance of the issues at stake in  
2 the litigation weighed in favor of Plaintiff who was suing the county for an illegal  
3 arrest).

4 Moreover, Plaintiffs' case is not solely about the Specific Incidents outlined  
5 in this case. As spelled out explicitly in the SAC, Plaintiffs allege that the City  
6 continues to violate Plaintiffs' constitutional rights and that these practices are  
7 widespread, longstanding, and ongoing. Plaintiffs allege not only that the City has  
8 violated the constitutional rights of the seven individual plaintiffs on numerous  
9 specific occasions outlined in the complaint—a matter of significant importance on  
10 its own—but also that the City has ongoing policies and practices that continue to  
11 violate their constitutional rights. They bring this case to obtain prospective relief  
12 from the City's unconstitutional practices which Plaintiffs seek to show are  
13 widespread, longstanding, and ongoing. *See* SAC at 60. In addition, Plaintiff KFA  
14 also brings this case on behalf of its members only to obtain declaratory and  
15 injunctive relief regarding the City's ongoing customs and practices. *See* Myers  
16 Decl., Exh. L at 8 (KFA is seeking a ruling that "the policies and practices are  
17 unconstitutional); *see also* SAC at 60. Collectively, Plaintiffs are challenging  
18 Defendant's customs, practices, and policies under the Fourth Amendment's  
19 prohibition against illegal seizures and as a violation of due process rights under  
20 the Fourteenth Amendment and the California Constitution.

21 Notwithstanding the City's unwavering insistence on framing this as a  
22 straightforward damages case involving discrete incidents, the scope of this  
23 litigation and the issues at stake here are not hypothetical, nor are they up for  
24 debate. Repeated attempts by the City to limit the scope of this litigation have been  
25 unsuccessful; the Second Amended Complaint is explicit, and the District Court  
26 has affirmed Plaintiffs' legal position repeatedly. *See* Myers Decl., Exh. I at 22, n.  
27 20 (noting that the allegations of the Supplemental FAC make clear that their  
28



1 claims for injunctive and declaratory relief are significant and potentially more  
2 consequential than their request for damages). The District Court has already  
3 issued a Preliminary Injunction, enjoining the enforcement of two provisions of  
4 LAMC 56.11 city-wide, on the ground that it was unconstitutional on its face. *See*  
5 Order Granting Plaintiffs' Motion for Preliminary Injunction (Dkt. 58). As the  
6 Court noted, vindicating Plaintiffs' rights will not only affect them, but would  
7 vindicate the constitutional rights of all other unhoused people who are subjected  
8 to these policies. *See* Dkt 58 at 27. And in August 2020, the Court found the City  
9 in Contempt for violating the Preliminary Injunction on numerous occasions city-  
10 wide. *See* Order Granting in Part Plaintiffs' Motion for Order to Show Cause re:  
11 Civil Contempt and Sanctions, Dkt. 106.

12 Viewing this as a damages-only case based on past incidents completely  
13 ignores Plaintiff KFA's claims, which do not seek money damages at all, but  
14 instead seek prospective relief to put a stop to the City's practices. It ignores all of  
15 the Plaintiffs' claims under the Declaratory Judgements Act, which is not based on  
16 past harms, but rather, based on ongoing violations and provides only for  
17 prospective relief to stop Defendant's constitutional violations City-wide. All of  
18 these issues are of constitutional proportions, and as such, this factor weighs  
19 heavily in favor of Plaintiffs. *See Dao v. Liberty Life Assurance Co.*, No. 14-cv-  
20 04749-SI (EDL), 2016 U.S. Dist. LEXIS 28268 \*13-14 (N.D. Cal. Feb. 23, 2016)  
21 (factor more heavily favors cases raising public rights on a broad scale, like in a  
22 civil rights or First Amendment claim, as opposed to a simple damages claim).

23 **ii. Amount in controversy**

24 The amount of damages sought in this case is relatively small (although not  
25 to the individual Plaintiffs, who are extremely low income and homeless, many of  
26 whom lost all of their belongings as a result of these practices). As discussed  
27 above, Plaintiffs also seek injunctive relief which would prevent future damages,  
28

1 not only for Plaintiffs, but also for Ktown for All members and for any other  
2 unhoused person that would otherwise be subject to the City's unconstitutional  
3 practices. The amount of future damages that would be prevented would therefore  
4 be significant.

5 But as noted above, Plaintiffs do not bring this case primarily for  
6 compensatory damages. Instead, as the District Court noted in its order denying  
7 Defendant's motion to dismiss, the Complaint "make[s] clear that [Plaintiffs']  
8 claims for injunctive and declaratory relief are significant and potentially more  
9 consequential than their request for damages." *See* Myers Decl., Exh. I at n. 20. In  
10 fact, Ktown for All seeks only declaratory and injunctive relief, and prospective  
11 relief is the only remedy available to all of the Plaintiffs for their claims under the  
12 Declaratory Judgments Act. Since this case is primarily about prospective relief,  
13 the question of the amount in controversy is largely irrelevant.

14 **iii. The parties' resources**

15 The City of Los Angeles is the second largest city in the United States with  
16 an operating budget of more than ten billion dollars. It spends more than \$30  
17 million dollars per year alone conducting the cleanups and enforcing the laws that  
18 are challenged in this litigation and also devote significant resources to  
19 documenting these Encampment Cleanups. On the other hand, the individuals in  
20 this case are all extremely low income and have very few financial resources or  
21 even physical possessions. Similarly, Ktown for All is an all-volunteer  
22 organization whose resources are committed to replacing items seized and  
23 destroyed by the City of Los Angeles. The balance of the parties' resources  
24 weighs heavily in Plaintiffs' favor.

25 **iv. The parties' relative access to relevant information**

26 Defendant should comply with discovery requests where Plaintiff has no  
27 alternative source for critical information. *Lamon v. Adams*, No. 1:09-cv-00205-  
28

1 LJO-SKO PC, 2010 U.S. Dist. LEXIS 122479, \*7-8 (E.D. Cal. Nov. 1, 2010)  
2 (compelling production of documents, despite burden to Defendant because  
3 Plaintiff has no other source of this information). In this case, there is nearly  
4 complete asymmetry of access to information. Defendant has multiple  
5 departments that document, track, and analyze every Encampment Cleanup it  
6 conducts, from the date of a request for a cleanup through to the completion of the  
7 cleanup. The City maintains photos, videos, narrative descriptions, and qualitative  
8 metrics about each of the cleanups and keeps specific “before and after”  
9 documentation that it can use as it sees fit. All of that documentation, planning,  
10 and processing is, however, kept internal to the City. The *only* public information  
11 about when Encampment Cleanups are conducted are the use of physical notices  
12 that are posted in advance of noticed cleanups (although as discussed below,  
13 cleanups frequently do not occur at the times the notices are posted). For Rapid  
14 Response enforcement actions taken by the City, there is not even the paper notice  
15 provided.

16 On the other hand, Plaintiffs are unhoused individuals and a volunteer  
17 organization with unhoused members, who allege that they are frequently and  
18 consistently subject to constitutional violations that result in the loss of all of their  
19 belongings. They have very little access to bathrooms, running water, and  
20 electricity, let alone working phones, the internet, or even paper to keep track of  
21 the dates and times of those violations. And of course, the constitutional violations  
22 they allege actually make it even harder for them to track, for example, the dates  
23 and times they were subjected to those violations because the Encampment  
24 Cleanups frequently result in the loss of the tools necessary to keep track of that  
25 information (like phones and written documentation).

26 Finally, the City does not collect or track the names of people whose  
27 encampments are cleaned up, even when individuals’ belongings are impounded  
28

1 (or even when, for example, a person is present with their belongings when they  
2 are seized or destroyed). Plaintiffs have no way, other than by location, of  
3 requesting information about cleanups they were subjected to.

4 **v. Importance of the discovery in resolving the issues**

5 These specific documents relate directly to Plaintiffs' claims. This request  
6 focuses on documentation of cleanups that occurred specifically where the  
7 Plaintiffs in this case have resided. As noted above, there is no other way to  
8 request documentation about cleanups that affected Plaintiffs, other than by  
9 requesting cleanup information related to the locations where Plaintiffs are living,  
10 which is what they have done here. The documents requested here are related to  
11 allegations in the complaint, including, for example, documentation related to Mr.  
12 Haugabrook's Specific Incidents, which still have not been produced by  
13 Defendant. The importance of those documents is unquestionable: these specific  
14 documents bear on the ultimate issues in the case, from the individual damages  
15 claims to liability under Section 1983 itself, as well as *Monell* liability and  
16 Plaintiffs' claims for prospective relief.

17 **vi. Whether the burden or expense of the proposed**  
18 **discovery outweighs its likely benefit**

19 As discussed above, the benefit of these documents is significant. On the  
20 other hand, the City has not shown that there is any significant burden or expense  
21 to the production of these documents, other than the ordinary burden or expense of  
22 discovery. *See In re: Citimortgage Inc.*, 2012 WL 10450139, at \*4) ("the mere  
23 fact that responding to a discovery request will require the objecting party to  
24 expend considerable time, effort and expense consulting, reviewing and analyzing  
25 huge volumes of documents and information is an insufficient basis to object to a  
26 relevant discovery request"). In fact, here, the volume of documents sought is not  
27 overwhelming, and by the City's own account, the burden of production is not  
28 significant.

1 Plaintiffs seek documents that are readily identifiable and easily obtainable.  
2 The City keeps detailed records of its cleanups in databases that are still in use.  
3 The City represented that it would be extremely burdensome to identify cleanups  
4 based on the locations provided by Plaintiffs, yet it represented it did so for “all of  
5 South LA.” As the City itself recognized in its response to an interrogatory, the  
6 City routinely runs searches in response to CPRAs for “all requests of a particular  
7 nature made on a particular day or in a particular geographical location.” Myers  
8 Decl., ¶ 61, Exh. AN, Interrogatory 14. Nor is there any merit to the City’s  
9 objection that producing these specific documents would be particularly  
10 burdensome. The very documents Plaintiffs seek here are routinely produced by  
11 the City in response to public records act requests. *See* Myers Decl., ¶¶ 79-82.  
12 Because Plaintiffs are seeking a discrete set of documents, the only burden is the  
13 effort it takes to collect those documents from known locations. *See Sung Gon*  
14 *Kang v. Credit Bureau Connection, Inc.*, No. 1:18-cv-01359-AWI-SKO, 2020 WL  
15 1689708, at \*5 (E.D. Cal. April 07, 2020) (finding that requested documents were  
16 reasonably accessible and not burdensome where “accessing the [documents] and  
17 their content is easily achievable but compiling the [documents] may prove  
18 somewhat time consuming”); *In re: Citimortgage*, 2012 WL 10450139, at \*4.

19 And to the extent there is a burden associated with identifying responsive  
20 documents by location, Plaintiffs offered to shoulder that burden by receiving  
21 documents from all cleanups conducted City-wide during the relevant time period,  
22 which the City declined.<sup>10</sup>

23 On the other hand, as discussed above, because Defendant does not keep  
24 track of cleanups by the names of individuals whose belongings are taken (even if,  
25

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26 <sup>10</sup> In fact, the City declined all offers of Plaintiffs to meet and confer to identify  
27 ways to mitigate the City’s alleged burden. *See* Myers Decl., ¶ 38, Exh. U at p. 7  
28 (“The City acknowledges that Plaintiffs offered” various proposals including  
queries and samples”). Instead, it simply refused to produce any additional  
responsive documents.

1 for example, the person is present when their belongings are taken), Plaintiffs have  
2 no other way to obtain documents related to cleanups that impacted Plaintiffs,  
3 other than to seek documents by location. And because these cleanups directly  
4 impact Plaintiffs and therefore, go directly to the issue of liability and damages,  
5 Plaintiffs seek more documents about these cleanups at these specific locations  
6 than, for example, cleanups conducted elsewhere around the City. *Compare* RFP 2  
7 (seeking all documents related to cleanups conducted where Plaintiffs have been  
8 residing) and RFPs 30, 33, and 34 (seeking specific, easily accessible documents  
9 related to a broader subset of Encampment Cleanups). Doing so properly balances  
10 the burden to Defendant to retrieve these documents with the needs of the case.

11 **d. The Requested Information is Reasonably Accessible**

12 Defendant objects that the documents sought are not “reasonable accessible,  
13 based on the undue burden and costs associated with searching for and producing  
14 documents and electronically stored information responsive to this Request.” To  
15 the extent the City intends this objection to refer to the special limitation for ESI  
16 under Rule 26(b)(2)(B), the objection misses the mark.

17 Under Rule 26(b)(2)(B), “A party need not provide discovery of  
18 electronically stored information from sources that the party identifies as not  
19 reasonably accessible because of undue burden or cost.” Fed. Rule Civ. Pro.  
20 26(b)(2)(B). The burden for demonstrating that ESI is stored in sources that are  
21 not “reasonably accessible” rests on the party objecting to the discovery, and then  
22 the burden shifts to the party seeking discovery to demonstrate good cause. *Id.*  
23 Defendant cannot meet the burden here. As an initial matter, the Rule 26(b)(2)(B)  
24 applies only to ESI, not to other forms of documents. Even with ESI, the City’s  
25 own explanation of the process for obtaining responsive documents proves why the  
26 documents are in fact “readily accessible” under Rule 26(b)(2)(B).



1 In *U.S. ex rel. Carter v. Bridgepoint Educ., Inc.*, 305 F.R.D. 225, 240 (S.D.  
2 Cal. 2015), the Court articulated the well-established distinction between “readily  
3 accessible” documents which are subject to the standard Rule 34 analysis and  
4 “inaccessible” ESI, which is subject to the Rule 26 limitation. In general,  
5 inaccessible ESI “is not readily useable and must be restored to an accessible state  
6 before the data is usable,” such as archival backup tapes or backups of data stored  
7 for emergency restoration. *Id. But see U.S. Exh. Rel. Guardiola v. Renown Health*,  
8 No. 3:12-cv-00295-LRH-VPC, 2015 WL 5056726, at \*3-4 (D. Nev. Aug. 25,  
9 2015) (even some backup documents may be deemed readily accessible if the  
10 backups can be restored and finding the \$136,000 cost of restoration reasonable);  
11 *Sung Gon Kang*, 2020 WL 1689708, at \*5 (even sources of documents that are  
12 encrypted and not searchable were still “readily accessibly” under Rule  
13 26(b)(2)(B)). On the other hand, “[a]ctive ESI sources—e.g., active computer files  
14 or e-mail records—proceeds in the same manner as would discovery from paper  
15 sources.... No special request must be made, and no special standards apply.”  
16 *Tyler v. City of San Diego*, No. 14-cv-01179-GPC-JLB, 2015 WL 1955049, at \*1  
17 (S.D. Cal. April 29, 2015) (citation omitted).

18 The documents Plaintiffs seek come from precisely these kinds of “active  
19 ESI.” As the City’s objection spelling out the process for obtaining the documents  
20 indicates, the relevant records are included in active databases and servers or  
21 potentially in paper copy. No restoration of any kind is necessary. The only step  
22 the City identifies as burdensome is downloading the data from the cloud, but  
23 “[m]oving active and easily accessible ESI from one storage medium to another  
24 does not, by itself, render it inaccessible.” *Al Otro Lado, Inc., v. Nielsen*, 328  
25 F.R.D. 408, 421 (S.D.Cal. 2018). Any burden the City identifies is not in  
26 accessing the documents, but instead in compiling them for production. That does  
27 not make the documents “inaccessible” under Rule 26(b)(2)(B). *See Sung Gon*  
28

1 *Kang*, 2020 WL 1689708, at \*5 (finding that requested documents were reasonably  
2 accessible and not burdensome where “accessing the [documents][and their content  
3 is easily achievable but compiling the [documents] may prove somewhat time  
4 consuming”).

5 **e. The City Has Waived its Other Objections**

6 **i. Claims of privilege**

7 The City objects that “to the extent the Request seeks information protected  
8 from disclosure by the attorney-client privilege and or attorney work product  
9 doctrines;” however, the City has failed to provide any additional information  
10 about what, if anything it is withholding on the basis of this objection or a privilege  
11 log. Defendant has waived any objections it might have had that these documents  
12 were privileged by failing to provide any additional information regarding these  
13 claims. *DeSilva*, 2020 WL 5947827, at \*7 (citing *Sanchez*, 2020 WL 3542328, at  
14 \*2).

15 **ii. Other boilerplate general objections**

16 As with all of its requests, the City incorporates three pages of boilerplate  
17 objections but failed to provide any basis for the specific objection or even an  
18 assessment of whether the objection specifically applies to the request. The use of  
19 boilerplate objections here is also inappropriate and an abuse of the discovery  
20 process. *Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. *See also Eisenhower*  
21 *Med. Ctr.*, 2020 U.S. Dist. LEXIS 218716, at \*9.

22 The City’s boilerplate objections do not apply to this specific Request for  
23 Production. The City refused to clarify which of the objections (if any) applied to  
24 this request, let alone the facts necessary to support its application, even after  
25 months of requests by Plaintiffs for the City to do so as required by Rule 34. The  
26 City has therefore waived the objection. *See e.g., Bosley*, 2016 WL 1704159, at  
27  
28

\*5(Defendant waived blanket objections by failing to provide details of the objections as required by Rule 34(b)(2)(B)).

**f. Plaintiffs' Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 2 within 21 days. Plaintiffs also request the City provide a sworn affidavit attesting to the extent to which the City has searched for responsive documents and a complete, explicit response as to the finality of their production.

**DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 2:**

Plaintiffs' arguments conflate two separate issues. First, Plaintiffs challenge the City's production of incident-specific documents for the individual Plaintiffs' specific alleged claims in the SAC. Second, Plaintiffs seek to compel production of all documents relating to other encampment cleanups at various locations dating back to January 1, 2018, none of which are alleged in the SAC. These issues must be addressed separately. The City produced incident-specific discovery and agrees that this discovery is relevant, but objects to producing all documents relating to *unalleged* encampment cleanups. RFP No. 2 is subset of Plaintiffs' substantially broader requests at issue in **RFP Nos. 30 and 33-34**, which requests all documents relating to over 41,000 encampment cleanups, including posting surveys, encampment cleanup reports, and health hazard reports and documentations for *all* encampment cleanups conducted Citywide dating back to April 2016. The City's arguments opposing production of all documents regarding *unalleged* encampment cleanup dating back to January 1, 2018 apply to the City's arguments raised in response to RFP No. 30 and 33-34, except that the City's burdens and costs are significant higher. *See* Declaration of Howard Wong ("Wong Decl.") ¶¶ 16-29.

**A. City's Production of Incident-Specific Documents**

1 In response to Plaintiffs' demands for early discovery, the City produced  
2 documents relating to the individual Plaintiffs' specific alleged incidents and  
3 included, among other documents, encampment cleanup reports, Health Hazard  
4 Checklists, posting surveys (for posted comprehensive cleanups); incident/case  
5 pictures during cleanups, and hazardous and non-hazardous waste records from the  
6 City's Bureau of Sanitation ("LASAN"). The incident-specific documents  
7 included LAPD reports, including Watch Commander Reports, Sergeant's Daily  
8 Reports, Daily Field Activity Reports, and Computer Aided Dispatch Reports.  
9 These documents were produced on November 9, 2019 on (CITY00001-2212) and  
10 December 10, 2019 (CTY002213-2677). Lebron Decl. ¶15. On January 10, 2020,  
11 the City produced reports for encampment cleanups conducted in March 2019 in  
12 South Los Angeles (CTY003240-4085). *Id.*

13 As an initial matter, Plaintiffs do not challenge the sufficiency of the City  
14 production incident-specific information for Plaintiff Garcia's three alleged  
15 incidents (SAC ¶¶ 124-150), El-Bey's two alleged incidents (SAC ¶¶173-191),  
16 Diocson's one alleged incident (SAC ¶¶ 210-218), or Ashley's one-alleged  
17 incident (SAC 219-231). Plaintiffs' dispute concerns only the City's incident-  
18 specific document production for the two Zamora and Zepeda alleged incidents  
19 (SAC ¶¶ 151-172) and the Haugabrook incidents (SAC ¶¶ 151-172).

20 During the Parties Rule 26(f) conference conducted on July 13, 2020, the  
21 Parties agreed that the City would produce LAPD body-worn video ("BWV") on a  
22 hard drive supplied by Plaintiffs, which the Parties addressed in their Rule 26(f)  
23 Joint Report. Lebron Decl. ¶¶ 6, 16, **Ex. 31** (Rule 26(f) Joint Report, Dkt. No. 76)  
24 at p.14. The City also addressed its production of documents in PDF format in the  
25 Joint Report. *Id.*

26 On July 27, 2020, the City served its Rule 26(a)(i) Initial Disclosures, which  
27 identified the City's production of incident-specific documents, including by bates  
28

1 numbers, dates, incident/case number of the report, and corresponding Plaintiff.  
2 Lebron Decl. ¶ 7, **Ex. 32** (City's Rule 26(a)(i) Initial Disclosures).

3 On August 25, 2020, the Parties conducted a meet-and-confer call regarding  
4 the Plaintiffs' RFPs and the City's anticipated motion for a protective order.  
5 Lebron Decl. ¶¶ 11, 18-19; **Ex. 36** (City's 8/24/20 M&C Letter). During that call,  
6 the Parties discussed the City's production of documents in PDF format and  
7 Plaintiffs' demands for production of documents in Tiff format with metadata.  
8 Lebron Decl. ¶ 19. The City explained during the call that it did not have the  
9 software or capability to produce documents in native format and the City  
10 produced documents in the form the documents are kept in the normal course. *Id.*  
11 In response to Plaintiffs' concerns that the City did not several large PDFs of the  
12 document production, rather than individual PDFs for each file, the City agreed to  
13 provide an index of its past document productions, produce future document  
14 productions in individual PDF files, and inquire into the possibility to use an e-  
15 discovery vendor. *Id.*

16 On September 25, 2020, the City sent a meet-and-confer letter to Plaintiffs  
17 containing the document index, including references to incident-specific  
18 documents by bates number and Plaintiff, and informing Plaintiffs in response to  
19 RFP No. 2 that the City remained willing to meet-and-confer regarding other  
20 specific incident reports, including if Plaintiffs had any additional information  
21 regarding the incidents. Lebron Decl. ¶¶ 12, 20, **Ex. 37** (City's 9/25/20 M&C  
22 Letter) at p.7-9, 11. On September 25, 2020, the City also produced additional  
23 documents (CTY006828-7472) including requested organization charts, notices,  
24 LSD forms, job descriptions, and other documents. Lebron Decl. ¶ 21. The City  
25 also informed Plaintiffs that the City obtained access to an e-discovery vendor for  
26 future document productions, and was producing individual PDF files for  
27 documents produced that day as CTY006828-7472. Lebron Decl. ¶¶ 20-21.  
28

1 On September 30, 2020, the Plaintiffs provided hard drives to the City for  
2 the production of BWV and, on October 8, 2020, the City produced the incident-  
3 specific BWV. Lebron Decl. ¶ 22.

4 On November 19, 2020, in an effort to address Plaintiffs' discovery  
5 demands, the City agreed to produce certain electronically exportable information  
6 from WPIMS, AMS, and the LASAN's MYLA311 database. Ursea Decl. ¶ 12.  
7 The City produced electronically exportable information from LASAN's  
8 Watershed Protection Information Management ("WPIMS") for encampment  
9 cleanups conducted in 2018 and 2019 (CTY020222) on December 18, 2020 and  
10 for cleanups conducted in 2020 (CTY020331) on December 29, 2020. Ursea Decl.  
11 ¶ 27, **Ex. 19** (Exemplar screenshots of WPIMS spreadsheet). The City's verified  
12 Interrogatory Responses explains that the WPIMS database contains basic  
13 information about encampment cleanups, including the dates and addresses of  
14 cleanups, names of LASAN responders, resolution codes, and some Council  
15 District information. Lebron Decl. ¶ 14, **Ex. 39** (City's Amended Rog Responses),  
16 Response 13(c). The City's Amended Responses to Zamora Interrogatory No.  
17 13(b) addresses the WPIMS excel sheet and explains that the excel contains basic  
18 data about encampment cleanups, including WPIMS incident/case numbers, dates  
19 and addresses of cleanups, LASAN responders, resolution codes, and some  
20 information on Council Districts.

21 On January 21, 2021, Plaintiffs sent the City a meet-and-confer letter  
22 regarding the City's responses to the Zamora interrogatories in which Plaintiffs  
23 raised for the first time that the City had not produced incident-specific reports for  
24 Zamora and Zepeda. Lebron Decl. ¶ 24. Documents were produced in November  
25 2019 – over a year earlier – and identified in reference to bates and Plaintiff several  
26 times as discussed above. Lebron Decl. ¶¶ 7, 12, 15, 20, **Ex. 32** (City's Rule  
27 26(a)(i) Initial Disclosures); **Ex. 37** (City's 9/25/20 M&C Letter).



1 On February 3, 2021, the Parties conducted a meet-and-confer regarding the  
2 City's responses to the Zamora interrogatories. Lebron Decl. ¶ 25. During that  
3 call, the City raised the issue why Plaintiffs waited over a year to raise the issue  
4 and noted that the March 21, 2019 incident report (case no. 53162) occurred on the  
5 same date and time one 6th Street and Kingsley, one block from the SAC's alleged  
6 location near the northeast corner of 6th Street and Ardmore. *Id.* Plaintiffs'  
7 counsel responded that it was clearly not the correct report because the SAC  
8 alleges Ardmore and not Kingsley. *Id.* Plaintiffs are in the best position to know  
9 whether or not pictures or BWV reflects their clients and raise any such issues with  
10 the City.

11 On February 16, 2021, the City sent Plaintiffs a meet-and-confer letter  
12 addressing the City's production of an additional report for WPIMS Incident/Case  
13 No. 53162 in the City's document production (CTY020332-20441). Lebron Decl.  
14 ¶ 13, 26, **Ex. 38** (City 2/16/21 M&C Letter) at 9; Ursea Decl. ¶ 33. Plaintiffs state  
15 in the Stipulation that this report reflects Zamora's June 11, 2019 incident. The  
16 City will request available BWV and meet-and-confer with Plaintiffs regarding the  
17 production of BWV. The City's verified amended Interrogatory Responses  
18 identified cleanups conducted on March 21, 2019 in specified Council Districts  
19 and referenced WPIMS incident/case numbers contained in WPIMS spreadsheet  
20 CTY020222. Lebron Decl. ¶ 14, **Ex. 39** (City's Amended Rog Responses),  
21 Response Nos. 6-9. To the extent that Plaintiffs believe additional information  
22 reflects Zamora's March 21, 2019 incident, the City will meet-and-confer  
23 regarding WPIMS incident/case numbers and production of reports.

24 Similarly, for Plaintiff Haugabrook, Plaintiffs did not meet and confer or  
25 raise the issue regarding additional encampment cleanups based on the WPIMS  
26 excel spreadsheet or the City's interrogatory responses. Lebron Decl. ¶ 27.  
27 Haugabrook alleges incidents occurring sometime in March 2019 and about a  
28

1 month later on Figueroa Street and 53rd Street and 52nd Place. SAC ¶¶ 192-209. Haugabrook's Responses to the City's Interrogatories provided little additional information and stated "on or about March 2019, the City of Los Angeles took and destroyed Plaintiff's belongings, including his backpack and all of its contents, including a phone and chargers. On or about April 2019, LA Sanitation workers threw out other items, including Plaintiff's plastic lawn chair and a dining room chair, each of which cost approximately \$20 to \$40. On yet another occasion, LA Sanitation threw out Plaintiff's tent and other items necessary for survival, including a sleeping cot which Plaintiff estimates was worth approximately \$50." Ursea Decl. ¶ 7, Ex. 5 (Haugabrook Responses to City's Interrogatories) at p.9.

11 On December 11, 2020, the City sent a meet-and-confer email to Plaintiffs addressing various discovery issues, including the City's production of South LA reports (CTY003240-4085). Ursea Decl. ¶ 22(a), Ex. 17 (City 12/11/20 M&C Email). The City stated that "Plaintiffs have not informed us whether any of the cleanups in [the South LA] production form the basis of Mr. Haugabrook's claim." *Id.* Plaintiffs responded on December 18, 2020 stating "this is the first time that you have inquired whether any of the documents produced by the City relate to Haugabrook's claims. From our perspective is it clear that the documents produced by the City do not relate to his claims[.]" See Ursea Decl. ¶ 26, Ex. 18 (Pltf's 12/18/20 M&C Email).

21 The City informed Plaintiffs during prior meet-and-confer discussions and correspondence that the City would address incident-specific discovery if Plaintiffs raised new issues or information. Lebron Decl. ¶¶ 12, 20, Ex. 37 (City's 9/25/20 M&C Letter) at p.11. The parties have a collective responsibility to address discovery disputes under Rule 26(b)(1). Plaintiffs state that they identified additional incidents that they believe reflect Haugabrook's claims based on the WPIMS excel spreadsheet. If so, Plaintiffs have an obligation to raise the issue

1 before moving to compel so that the City can meet and confer regarding Plaintiffs’  
2 identified WPIMS incident/case reports. Instead, Plaintiffs raise it for the first time  
3 in this Stipulation and then attempt to use that argument as a springboard to justify  
4 production of all reports dating back to January 1, 2018. *See Moore v. Superway*  
5 *Logistics, Inc.*, No. 1:17-cv-01480-DAD-BAM, 2019 U.S. Dist. LEXIS 90111, at  
6 \*10 (E.D. Cal. May 28, 2019) (“Counsel should strive to be cooperative, practical  
7 and sensible, and should seek judicial intervention only in extraordinary situations  
8 that implicate truly significant interests.”) Indeed, nearly all of Plaintiffs’ meet-  
9 and-confer communications focused entirely on production of information from  
10 entire databases, emails, and requests for all encampment reports, forms, storage  
11 records, complaints, and LAPD records dating back several years (discussed in  
12 subsection 2 below).

13 Similar to RFP No. 1, the City raised privilege objections based on  
14 Plaintiffs’ broad demand for all email communications relating to various topics.  
15 The City has not withheld any documents on the basis of privilege for incident-  
16 specific documents produced. The argument that the City waived privilege  
17 because it did not produce a privilege log on over half a million documents that  
18 that the City has not reviewed fails for the same reasons discussed in the City’s  
19 Response to RFP No. 1. Nor are Plaintiffs entitled to a declaration regarding the  
20 City’s search efforts. *Travelers Indem. Co. v. Trumpet, Inc.*, Case No. 8:19-cv-  
21 01036-PSG (JDEx), 2020 U.S. Dist. LEXIS 166187, at \*45 (C.D. Cal. May 8,  
22 2020) (denying plaintiffs’ motion to compel defendant “to explain what it did to  
23 respond to these discovery requests” because “[n]either Rule 33 nor Rule 34  
24 requires a party explain the steps it took to search for or inquire about relevant,  
25 responsive documents or information.”).

26 **B. Request for All Documents Re Unalleged Encampment Cleanups**

27 **1. Scope of Permissible Discovery.**

1 Rule 26(b)(1) addresses the standard for the scope of discovery: “Parties  
2 may obtain discovery regarding any nonprivileged matter that is relevant to any  
3 party’s claim or defense and proportional to the needs of the case, considering the  
4 importance of the issues at stake in the action, the amount in controversy, the  
5 parties’ relative access to relevant information, the parties’ resources, the  
6 importance of the discovery in resolving the issues, and whether the burden or  
7 expense of the proposed discovery outweighs its likely benefit.” F.R.Civ.P.  
8 26(b)(1). Under the amended Rule 26, relevancy is no longer sufficient to obtain  
9 discovery; the request must also be proportional to the needs of the case. *In re*  
10 *Bard IVC Filters Prods. Liab. Litig.*, 317 F.R.D. 562, 564 (D. Az. 2016).

11 Rule 26(b)(2) imposes further limitations on the scope of the discovery. A  
12 court “must limit the frequency or extent of discovery allowed by these rules or by  
13 local rule if it determines that: (i) the discovery sought is unreasonably cumulative  
14 or duplicative, or can be obtained through some other source that is more  
15 convenient, less burdensome, or less expensive; ... (iii) the proposed discovery is  
16 outside the scope permitted by Rule 26(b)(1).” F.R.Civ.P. 26(b)(2)(C). “Courts,  
17 thus, have a duty to pare down overbroad discovery requests under Rule 26(b)(2).”  
18 *Caballero v. Bodega Latina Corp.*, Case No. 2:17cv-00236-JAD-VCF, 2017 U.S.  
19 Dist. LEXIS 116869, at \* 8 (D. Nev. Jul. 25, 2017).

## 20 2. Plaintiffs’ SAC and Alleged Claims

21 The operative SAC alleges claims on behalf of seven individual unhoused  
22 individuals and organization Ktown for All (“KFA”). Lebron Decl. ¶ 2, **Ex. 27**  
23 (SAC). The SAC unambiguously alleges that: “LAMC 56.11 codifies the City’s  
24 longstanding policy of seizing and destroying homeless people’s belongings.”  
25 SAC ¶ 58. Plaintiffs allege facial and as-applied claims for unreasonable seizures  
26 in violation of the Fourth Amendment, Article I, § 13 of the California  
27 Constitution, and destruction of personal property in violation of the Due Process  
28

1 Clause and Article I, § 7, of the California Constitution. SAC ¶¶ 232-247, 255-  
2 265. Plaintiffs’ facial claims challenge the constitutionality of the “Bulky Item”  
3 provision under LAMC 56.11(3)(i) and 56.11(10)(d). SAC ¶¶ 232-238, 255-258.  
4 Plaintiffs’ as-applied claims allege that the City wrongfully seized and destroyed  
5 personal property without notice or due process during encampment cleanups  
6 conducted under LAMC 56.11. SAC ¶¶ 239-247, 259-265. The individual  
7 Plaintiffs also allege a claim for violation of a mandatory statutory duty under  
8 Government Code § 815.6 and California Civil Code § 2080 *et seq.* SAC ¶¶ 272-  
9 275. Plaintiff El-Bey only asserts a claim for violation of the Bane Act (California  
10 Civil Code § 52.1. SAC ¶¶ 266-271.

11 Specifically, Plaintiff El-Bey alleges that his rights were violated during two  
12 specific incidents that occurred on January 10, 2019 at an area near 6th Street and  
13 Alexandria, and on June 4, 2019 at an area near Western Ave. and Oakwood. SAC  
14 ¶¶ 173-191. Plaintiff Garcia alleges claims for three specific incidents occurring  
15 on or around January 29, 2019 at Aetna Street and Tyrone Avenue, on or around  
16 April 29, 2019 at Aetna Street and Van Nuys Boulevard, and on or around August  
17 14, 2019 at Calvert and Bessemer. SAC ¶¶ 124-150. Plaintiffs Zamora and  
18 Zepeda allege claims for two specific incidents occurring on or around March 21,  
19 2019 at 6th Street and Ardmore, and on or around June 11, 2019 at 5th Street and  
20 Harvard. SAC ¶¶ 151-172. Plaintiff Haugabrook alleges claims for incidents  
21 occurring sometime in March 2019 and about a month later on Figueroa Street and  
22 53rd Street and 52nd Place. SAC ¶¶ 192-209. Plaintiff Diocson alleges claims for  
23 one specific incident occurring on or around April 24, 2019 at Lomita and McCoy.  
24 SAC ¶¶ 210-218. Plaintiff Ashley alleges claims for one specific incident  
25 occurring on or around May 21, 2019 at Lomita and McCoy. SAC ¶¶ 219-231.

26 Plaintiff KFA, in turn, alleges that is an “unincorporated membership  
27 organization in the Koreatown neighborhood in Los Angeles” “founded in 2018 to  
28

1 form connections between housed and unhoused residents of Koreatown and to  
2 advocate for housing and shelters in Koreatown.” SAC ¶ 38. KFA alleges that it  
3 had to divert resources and its unhoused members have suffered harm as a result of  
4 the City’s enforcement of LAMC 56.11. SAC ¶¶ 40-43.

5 On June 2, 2020, the Court issued an order granting in part and denying in  
6 part the City’s Motion to Dismiss. Lebron Decl. ¶ 4, **Ex. 29** (6/2/20 Order  
7 Granting in Part and Denying in Part Def.’s MTD, Dkt. No. 65). The Court’s  
8 Order stated that KFA “asserts that it need only ‘rais[e] a single incident . . . to  
9 hold the City liable under Monell’... Accepting this clarification, the Court  
10 interprets KFA’s claims in the SAC as seeking only to obtain a ruling that the  
11 City’s policies and practices are unconstitutional and not that each past application  
12 of those policies and practices to its members was unconstitutional.” *Id.* (Dkt. No.  
13 65) at 7. The Court ruled that to “the extent KFA does seek a declaration that the  
14 City has unconstitutionally applied the Ordinance or related policies or practices to  
15 each of its members, the Court STRIKES that request.” Dkt. No. 65 at 7, n.4. On  
16 June 29, 2020, Plaintiffs filed a notice electing not to file an amended complaint.  
17 Lebron Decl. ¶ 5, **Ex. 30** (Pltf’s Notice Electing Not to File an Amended  
18 Complaint, Dkt. No. 72).

19 3. The Requested Discovery that Is Not Relevant to Plaintiffs’ Claims

20 As discussed above, Plaintiffs allege that their property was unlawfully  
21 seized and destroyed during specific incidents. The parties are entitled to  
22 discovery relevant to show: (1) whether Plaintiffs’ property was in fact seized  
23 and/or destroyed by the City; (2) whether any such seizure and/or destruction was  
24 unreasonable under the Fourth Amendment; (3) whether Plaintiffs received notice  
25 and opportunity to be heard sufficient to satisfy due process; and (4) whether any  
26 destroyed property was the type that should have been stored under California  
27 Civil Code § 2080 et seq. The issue of whether the individual plaintiffs’ property  
28



1 was unreasonable seized or destroyed without notice or due process is fact specific  
2 to their respective alleged incidents.

3 Plaintiffs, however, demand that the City produce all documents and reports  
4 for all encampment cleanup conducted dating back to January 1, 2018 for various  
5 locations, all information contained in City databases, all communications  
6 regarding forms or notices, all complaints, grievances, and investigation files.  
7 Plaintiffs' other Requests demand these documents for all encampment cleanups  
8 conducted Citywide dating back to April 1, 2016. These documents are not  
9 relevant on their face in establishing Plaintiffs' specific alleged constitutional  
10 violations or claims for relief. *See Valenzuela v. City of Calexico*, Case No. 14-cv-  
11 481-BAS-PCL, 2015 U.S. Dist. LEXIS 26566, at \* 9 (S.D. Cal. Mar. 4, 2015)  
12 ("The fact that plaintiff alleged no constitutional violation occurred on May 23,  
13 2014 makes that encounter significantly less relevant to a Monell claim.").

14 Plaintiff acknowledge the cleanup reports do not identify individuals by  
15 name, yet argue that they these reports are relevant so Plaintiffs' counsel can figure  
16 out if Plaintiffs' rights were violated in the past. This argument is also flawed. *See*  
17 *Valenzuela v. City of Calexico*, Case No. 14-cv-481-BAS-PCL, 2015 U.S. Dist.  
18 LEXIS 26566, at \* 3 (S.D. Cal. Mar. 4, 2015) ("[A] litigant may not file suit in  
19 order to use discovery as the sole means of finding out whether [plaintiffs have] a  
20 case.") (quotations omitted); *Carrera v. First Am. Home Buyers Prot. Co.*, Case  
21 No. 13cv1585 H (WMc), 2014 U.S. Dist. LEXIS 190451, at \*7-8 (S.D. Cal. Jan.  
22 29, 2014) (the purpose behind Rule 26(b)(1) . . . is to "signal[] to the parties that  
23 they have no entitlement to discovery to develop new claims or defenses that are  
24 not already identified in the pleadings").

25 (a) Monell Discovery

26 The facts relevant to Monell are not in dispute. In its Answer, the City has  
27 conceded that it: (1) promulgated LAMC 56.11 and related Protocols; (2) conducts  
28

1 encampment cleanups pursuant to LAMC 56.11, during which it removes and/or  
2 discards items on the public right of way, including items that may belong to  
3 homeless persons; (3) does not obtain a warrant before removing and/or discarding  
4 items pursuant to LAMC 56.11; (4) provides notice (or not) in connection with  
5 removing and/or discarding items, as specified in LAMC 56.11; and (5) has  
6 enforced LAMC 56.11 since 2016 and continues to enforce it to this day. See  
7 Lebron Decl. ¶ 3, **Ex. 28** (City’s Answer to SAC, Dkt. No. 75) at ¶¶ 16, 20, 21, 56,  
8 68, 102, 114. LAMC 56.11 designated LASAN as the administrative agency for  
9 promulgating rules, protocols, and procedures for implementing and enforcing the  
10 ordinance. LAMC 56.11(11). LASAN adopted the “Los Angeles Municipal Code  
11 56.11 Standard Operating Protocols (“SOPs”) addressing the procedures for  
12 encampment cleanups and enforcement operations. Wong Decl. ¶ 8.

13 “A rule or regulation promulgated, adopted, or ratified by a local  
14 governmental entity’s legislative body **unquestionably** satisfies *Monell’s* policy  
15 requirements.” *Thompson v. City of Los Angeles*, 885 F.2d 1439, 1444 (9th Cir.  
16 1989) (emphasis added), *overruled on other grounds by Bull v. City & Cty. of San*  
17 *Francisco*, 595 F.3d 964 (9th Cir. 2010) (emphasis added). In *Monell*, the  
18 Supreme Court confirmed that the City may be liable for alleged actions of its  
19 employees if the action alleged to be unconstitutional “implements or executes a  
20 policy statement, ordinance, regulation, or decision officially adopted or  
21 promulgated by that body's officers[.]” *Monell v. Dep't of Soc. Servs.*, 436 U.S.  
22 658, 690-691 (1978).

23 Here, the application of Monell liability is straightforward. The City even  
24 offered to stipulate on Monell issues to streamline discovery. Ursea Decl. ¶ 4, **Ex.**  
25 **1** (City’s 07/17/20 Proposed Monell Stipulation). Plaintiffs rejected this  
26 reasonable proposal. Ursea Decl. ¶ 5, **Ex. 3** (Pltf’s 7/30/20 Letter); *see also*  
27 *Gonzalez v. City of Schenectady*, Case No. 1:09-CV-1434, 2011 U.S. Dist. LEXIS  
28

1 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“additional discovery related to strip  
2 searches is unnecessary as it is undisputed that the search was conducted pursuant  
3 to the City's written policy, which had been in effect since 1999”).

4 Moreover, Plaintiffs argued successfully to the Court that Plaintiffs “need  
5 only raise a single incident to hold the City liable under Monell” in response to the  
6 City’s motion to dismiss. Lebron Decl. ¶ 4, **Ex. 29** (6/2/20 Order re City’s MTD),  
7 Dkt. No. 65 at 7. In contrast, Plaintiffs argue in discovery that all encampment  
8 cleanups, reports, forms, notices, storage data and other documents are necessary  
9 to establish Monell liability.

10 Plaintiffs also contend that expansive discovery is needed to establish  
11 liability under Monell for *unwritten* policies and customs. The City requested  
12 during the meet-and-confer process that Plaintiffs identify the specific unwritten  
13 policies and customs necessitating such broad discovery. Lebron Decl. ¶¶ 12-13,  
14 19-20 **Ex. 37** (City’s 9/25/20 M&C Letter) at p.13; **Ex. 38** (City’s 2/16/21 M&C  
15 Letter) at p.6. The City noted that identifying the specific unwritten policies or  
16 practices would enable the Parties to address their disputes regarding relevance and  
17 proportionality or, alternatively, lead to a stipulation regarding the alleged  
18 unwritten policies or customs. *Id.* Plaintiffs referred the City to the Plaintiffs’ 60-  
19 page SAC, but did not identify the *unwritten* policies and customs. *Id.*

20 Even if Plaintiffs identified a specific *unwritten* policy, they still need to  
21 allege that this *unwritten* policy subjected Plaintiffs to a deprivation of  
22 constitutional rights under the Fourth Amendment and Due Process Clause. *Bd. of*  
23 *Cnty. Comm’rs v. Brown*, 520 U.S. 397, 404-405 (1997); *Oklahoma City v. Tuttle*,  
24 471 U.S. 808, 823 (1985) (“Monell must be taken to require . . . that a particular  
25 violation was ‘caused’ by the municipal ‘policy.’”). Here, the SAC contains no  
26 such allegations for the Plaintiffs’ specific incidents. Lebron Decl. ¶ 2, **Ex. 27**  
27 SAC ¶¶ 124-231; *see also Centeno v. City of Fresno*, Case No. 1:16-cv-00653-  
28

1 DAD-SAB, 2016 U.S. Dist. LEXIS 180013, at \* 23 (E.D. Cal. Dec. 29, 2016)  
2 ([T]he mere existence of a policy is not sufficient to trigger liability under Section  
3 1983, the policy of the department has to be the moving force behind the  
4 constitutional violation.”). The existence of an *unwritten* policy that caused no  
5 constitutional injury to the Plaintiffs is irrelevant. *City of Los Angeles v. Heller*,  
6 475 U.S. 796, 799 (1986) (“If a person has suffered no constitutional injury at the  
7 hands of the individual police officer, the fact that department regulations might  
8 have authorized the use of constitutionally excessive force is quite besides the  
9 point.”).

10 Plaintiffs alternatively argued that expansive discovery is needed to establish  
11 Monell liability under a failure-to-train theory. *Monell* does not provide a separate  
12 cause of action for the failure by the government to train its employees.”  
13 *Arrington v. Clark Cty. Dep’t of Family Servs.*, Case No. 2:13-cv-622-JAD-NJK,  
14 2014 U.S. Dist. LEXIS 132629, at \*8 (D. Nev. Sep. 22, 2014) (quoting *Segal v.*  
15 *City of N.Y.*, 459 F.3d 207, 219 (2d Cir. 2006)). Rather, *Monell* “extends liability  
16 to a municipal organization where that organization’s failure to train, or the  
17 policies or customs that it has sanctioned, led to an independent constitutional  
18 violation.” *Id.* And Monell liability under a failure-to-train theory must also still  
19 be related to a violation of Plaintiffs’ constitutional rights. *Long v. City & Cnty. of*  
20 *Honolulu*, 511 F.3d 901, 907 (9th Cir. 2007). Plaintiffs allege no such claims.  
21 Lebron Decl. ¶ 2, Ex. 27, SAC ¶¶ 151-172; *see also Connick v. Thompson*, 563  
22 U.S. 51, 61-62 (2011) (addressing failure to train requirements under *Monell*).

23 (b) Declaratory Judgment Act and Prospective Relief

24 Plaintiffs’ contention that expansive discovery is needed because Plaintiffs  
25 seek prospective relief, including declaratory relief, is also misplaced. The  
26 Declaratory Judgment Act (“DJA”), 28 U.S.C. § 2201(a), “does not create new  
27 substantive rights, but merely expands the remedies available in federal courts.”  
28

1 *Shell Gulf of Mexico, Inc. v. Ctr. For Biological Diversity, Inc.*, 771 F.3d 632, 635  
2 (9th Cir. 2014). The DJA is a procedural statute that “merely offers an additional  
3 remedy to litigants.” *Team Enterprises, LLC v. Western Inv. Real Estate Trust*,  
4 721 F. Supp. 2d 898, 911 (E.D. Cal. 2010) (citations omitted). “A declaratory  
5 judgment is not a theory of recovery.” *Id.* Nor is a request for declaratory relief an  
6 independent cause of action, but rather a remedy that is derivative of the  
7 underlying claims. *Gilliam v. Bank of Am., N.A.*, Case No. SA CV 17-1296-DOC  
8 (JPRx), 2018 U.S. Dist. LEXIS 227706, at \*48 (C.D. Cal. June 22, 2018).

9 Plaintiffs’ contention that substantial discovery regarding past, unrelated  
10 cleanups is needed for declaratory relief ignores the fact that prospective relief  
11 addresses the City’s existing – policies and practices. A declaratory judgment  
12 provides prospective relief to address future or continuing violations. *See Bayer v.*  
13 *Nieman Marcus Group, Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Declaratory relief  
14 is not available to adjudicate past constitutional violations. *Id.*; *see also C.F.C. v.*  
15 *Miami Dade Cnty.*, 349 F. Supp. 3d 1236, 1254 (S.D. Fla. 2018) (“A declaration  
16 that that the challenged statute as applied in the past to these plaintiffs is  
17 unconstitutional would be nothing more than a gratuitous comment without any  
18 force or effect.”). Moreover, the Court previously ruled that Plaintiff KFA cannot  
19 seek declaratory relief relating to alleged past constitutional violations of its  
20 members. *Lebron Decl.* ¶ 4, **Ex. 29** (6/2/20 Order re City’s MTD) at 7.

21 4. Plaintiffs’ Requests are not Proportional to the Case.

22 The “parties and the court have a collective responsibility to consider the  
23 proportionality of all discovery and consider it in resolving discovery disputes.” *In*  
24 *re Bard IVC Filters Prods. Liab. Litig.*, 317 F.R.D. 562, 564 (D. Az. 2016).  
25 Proportionality is determined by assessing the importance of the issues at stake in  
26 the action, the amount in controversy, the parties’ relative access to relevant  
27 information, the parties’ resources, the importance of the discovery in resolving the  
28

1 issues, and whether the burden or expense of the proposed discovery outweighs its  
2 likely benefit. F.R.Civ.P. 26(b)(1).

3 The Wong Declaration and the City's Amended Interrogatory Responses  
4 support the City's objections regarding the burdens imposed on the City in  
5 responding to Plaintiffs' request. *See* Wong Decl. ¶¶ 16-29. In August 2020, the  
6 City identified approximately 41,734 incidents/cases constituting encampment  
7 cleanups as defined by Plaintiffs for the period from April 1, 2016 to July 31,  
8 2020, and approximately 32,730 incidents/cases for the period from January 1,  
9 2018 to July 31, 2020. Wong Decl. ¶ 24. Environmental compliance inspectors  
10 ("ECIs") in LASAN's Livability Services Division ("LSD") prepare reports and  
11 metrics documenting encampment cleanups using WPIMS. Wong Decl. ¶ 16.

12 During the meet-and-confer process, the City agreed to produce additional  
13 information extracted from WPIMS and other databases. Ursea Decl. ¶12.  
14 WPIMS excel spreadsheet CTY020222 contains additional data regarding  
15 encampment cleanups conducted in 2018 and 2019 and WPIMS spreadsheet  
16 CTY020331 contains this information for 2020. Lebron Decl. ¶ 14, **Ex. 39** (City's  
17 Amended Rog Responses), Response 13(c); Wong Decl. ¶ 25; Ursea Decl. ¶ 27,  
18 **Ex. 19** (Exemplar screenshots of WPIMS excel spreadsheet).

19 WPIMS is an older technology that provides access to forms used to  
20 generate reports for various operations, including encampment cleanups and  
21 stormwater pollution cases, among others. Wong Decl. ¶ 17. ECIs can attach  
22 documents to the forms saved on WPIMS, such as Health Hazard Checklist,  
23 posting surveys or waste manifests. *Id.* ¶ 19. ECIs take pictures during  
24 encampment cleanups or compliance and a single incident/case could have  
25 hundreds of pictures. Reports contained in WPIMS generally contain several or  
26 more pictures of the cleanup, but WPIMS does not store all pictures associated  
27 with an encampment cleanup. *Id.* ¶ 20.  
28



1 LSD uses the incident/case number to identify reports and documents saved  
2 on WPIMS. Wong Decl. ¶ 21. There is no automated method for exporting  
3 documents and reports saved on WPIMS. Wong Decl. ¶ 21; Lebron Decl. ¶ 14,  
4 **Ex. 39** (City's Amended Rog Responses), Response 13(c). In order to obtain a  
5 document or report saved on WPIMS, and ECI must manually download one  
6 document or report at a time. *Id.* Other documents not stored on WPIMS are also  
7 identified by the incident/case number and must also be collected. Wong Decl. ¶  
8 21. Other documents could include hazardous and non-hazardous waste disposal  
9 records maintained by LASAN's Solids Division and authorizations for posted  
10 comprehensive cleanups maintained in LASAN's Authorization Management  
11 System ("AMS"). Wong Decl. ¶ 21.

12 In order to search for and produce all of the requested documents regarding  
13 encampment cleanups, an ECI would need to reference a spreadsheet identifying  
14 all of incident/case numbers, the address listed for the encampment cleanup, the  
15 date and type of cleanup (posted comprehensive cleanup or compliance action),  
16 manually download reports and documents in WPIMS, conduct additional searches  
17 by incident/case number for pictures and media files not saved on WPIMS, and  
18 manually collect and assemble by incident/case number any waste disposal records  
19 or cleanup authorizations. Wong Decl. ¶ 26. LSD is currently short staffed with  
20 12 ECI positions currently vacant as a result of budget cuts or ECI's promoting or  
21 transferring to other positions. Wong Decl. ¶ 27. This process is extremely time-  
22 consuming and expensive. *See* Wong Decl. ¶¶ 28-29.

23 The expense and burden imposed on the City significantly exceeds  
24 Plaintiffs' alleged damages, as disclosed in Plaintiffs' Rule 26(a) Initial  
25 Disclosures. Lebron Decl. ¶ 8, **Ex. 33** (Pltf's Rule 26(a)(1) Initial Disclosures).  
26 Plaintiffs' discovery demands are not proportional to the discovery the needs of  
27 this case. *See Goodwin v. City of Glendora*, Case No. CV-17-3537-FMO (PLAx),  
28

2017 U.S. Dist. LEXIS 224122, \* 15-16 (C.D. Cal. Dec. 13, 2017) (rejecting argument that discovery regarding every house in the City of Glendora that has been entered without a warrant in the past ten years ... [was] relevant and proportional to plaintiff's Monell claim where plaintiff alleged his house was entered without exigent circumstances or probable cause supporting a warrant.); *Hoffman v. Cnty. of Los Angeles*, Case No. CV-15-03724-FMO (ASx), 2016 U.S. Dist. LEXIS 123515 \* (C.D. Cal. Jan. 5, 2016) (RFP requests for all arrest reports and records over a five period not relevant to plaintiff's Monell claim for alleged Fourth Amendment violation and not proportional to needs of case; production in response to request required "a considerable amount of time and manpower" and imposed under burden and expense relative to the minimal relevance to Monell); *Saunders v. City of Chicago*, Case No. 12-cv-9158, 2017 U.S. Dist. LEXIS 509, \* 31-32 (N.D. Ill. Jan. 4, 2017) (seeking discovery of entire law enforcement database is not proportional to plaintiff's claims or discovery needs); *Crawford v. Cnty. of Orange*, Case No. SA-CV-160503—DOC (DFMx), 2017 U.S. Dist. LEXIS 224164 (C.D. Cal. Oct. 13, 2017) (interrogatory seeking Monell discovery and information regarding resistance offenses over a 10-year period was not proportional and relevance of the discovery was minimal). The motion to compel production of all documents regarding these unalleged encampment cleanups dating back to January 1, 2018 should be denied.

#### **REQUEST FOR PRODUCTION NO. 11:**

All policies, procedures, directives, manuals, bulletins, and special orders, related to conducting ENCAMPMENT CLEANUPS, including but not limited to the seizure or destruction of property belonging to homeless people.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad in seeking documents dating back to April 2016, three years before Plaintiff El-Bey's specific incidents occurred as alleged in the SAC. Defendant objects that the Request is not proportional to the needs of the case, insofar as the burden or expense of searching for and producing documents dating back to April 2016, three years before the specific alleged incidents occurred, outweighs the benefit of such discovery to Plaintiff El Bey's specific claims alleged in the SAC. Subject to and without waiving these objections, Defendant responds as follows: Defendant previously produced documents responsive to this Request and will produce additional responsive documents in Defendant's possession, custody or control.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad in seeking documents dating back to April 2016, three years before Plaintiffs' specific incidents occurred as alleged in the SAC. Defendant objects that the Request is not proportional to the needs of the case, insofar as the burden or expense of searching for and producing documents dating back to April 2016, three years before the specific alleged incidents occurred, outweighs the benefit of such discovery to Plaintiffs' specific claims alleged in the SAC. Subject to and without waiving these objections, Defendant responds as follows: Defendant previously produced documents responsive to this Request and will produce additional responsive documents in Defendant's possession, custody or control.

**PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 11:**

Plaintiffs seek the production of policies and procedures related to Encampment Cleanups. These documents are highly relevant to the central issue of this case and are relevant both for establishing *Monell* liability as well as establishing the City's practices for purposes of prospective relief under the Declaratory Judgments Act. In both instances, Plaintiffs seek to show that the City has had a longstanding and persistent practice of depriving homeless individuals of their constitutional rights. Those violations have occurred not only because the now-enjoined "bulky item provision" of LAMC 56.11 is unconstitutional on its face, but also because the City has applied the ordinance in unconstitutional ways, through the application of widespread and longstanding policies, customs and practices. Plaintiffs therefore seek the written policies and procedures related to Encampment Cleanups, which Plaintiffs allege is primarily the mechanism by which the City enforces LAMC 56.11. *See* SAC ¶ 69.

Plaintiffs request documents going back to April 2016 (which is only three years prior to the date this litigation was filed and only three and a half years prior to the date Plaintiffs provided Defendant with these RFPs). The request encompasses all policies and procedures currently in effect, any policies that were in effect at the time of the Specific Incidents referenced in the SAC, and policies that have been in effect since LAMC 56.11 was amended in April 2016. Current policies are relevant for purposes of prospective relief; policies that were in place at the time the discrete incidents in the complaint occurred are relevant for purposes of establishing *Monell* liability; and policies that were in place prior to the individual incidents show whether and to what extent the City amended its policies in response to prior complaints, which is also relevant for *Monell* liability. *Henry v. Cty. of Shasta*, 132 F.3d 512, 519 (9th Cir. 1997), opinion amended on

1 denial of reh’g, 137 F.3d 1372 (9th Cir. 1998) (*Monell claim* supported by “almost  
2 identical incident as that complained of” which put Defendant on notice as to  
3 future abuses); *Los Angeles Cty. v. Humphries*, 562 U.S. 29, 31(2010) (*Monell*  
4 requirement applies to prospective relief (both declaratory and injunctive) as well  
5 as damages claims).

6 Defendant does not specifically object to the request on the basis of  
7 relevance, and nor can it; written policies and procedures are the type of discovery  
8 always requested and used in any *Monell* or prospective relief case against a  
9 government entity. *See e.g., Medora v. City and Cnty of San Francisco*, No. C 06-  
10 0558 EDL, 2007 WL 9810901, at \*8 (N.D. Cal. June 8, 2007) (granting Plaintiff’s  
11 motion to compel the production of policies and procedures to prove *Monell*  
12 liability, because “a 5-year time limitation adequately serves Plaintiff’s interests in  
13 obtaining relevant documents while avoiding the imposition of undue burden and  
14 expense on Defendants”).

15 Instead, the City objects that the request is overbroad and not proportionate  
16 to the needs of the case. While maintaining its objections, Defendant has produced  
17 a patchwork of internal policies, procedures, manuals, bulletins, and directives  
18 since October 2019 and responded to the request by stating “Defendant previously  
19 produced documents responsive to this Request and will produce additional  
20 responsive documents in Defendant’s possession, custody or control.”

21 **g. Defendant’s Written Response Does Not Comply With Rule 34**

22 The City’s Amended Response to this RFP also does not comply in any way  
23 with Federal Rule of Civil Procedure Rule 34(b)(2). *See DeSilva*, 2020 WL  
24 5947827, at \*9 (compelling production of documents and responses compliant with  
25 Rule 34 and noting that vague responses that “leave [the propounding party] in the  
26 dark” . . . is precisely the situation Rule 34(b)(2) is designed to prevent.” *See also*  
27 2015 Amendment Adv. Comm. Note to Fed. R. Civ. P. Rule 34(b)(2)(C)  
28

1 (amendment was added to “end the confusion that frequently arises when a  
2 producing party states several objections and still produces information.”).<sup>11</sup>

3 First, the City refuses to state that it is producing *all* documents in its  
4 possession, custody or control. Second, Defendant has maintained its objections,  
5 including myriad general objections, without identifying whether and to what  
6 extent it is withholding documents responsive to the request. Neither are allowable  
7 under Rule 34(b)(2). Even after the parties met and conferred about the  
8 sufficiency of the City’s written responses, the City produced amended responses  
9 which again failed to “state[s] whether any responsive materials are being withheld  
10 on the basis of” any of the City’s objections. *See* Fed. R. Civ. P. 34(b)(2)(B) – (C).  
11 In doing so, the City fails to provide sufficient information to “alert other parties to  
12 the fact that documents have been withheld and thereby facilitate an informed  
13 discussion of the objection.” 2015 Amendment Adv. Comm. Note to Fed. R. Civ.  
14 P. 34., *D.C.*, 2016 U.S. Dist. LEXIS 197240, at \*5. The City has also failed to  
15 identify whether it limited its search for responsive documents in any way based on  
16 the objections, for example, to specific City departments, custodians, etc. *See*  
17 *Advanced Visual Image Design, LLC.*, 2015 WL 4934178, at \*3 (finding that a  
18 party responding to a request for production “has a duty to make a reasonable  
19 inquiry to locate responsive documents and then to provide a complete, explicit  
20 response”).

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22  
23 <sup>11</sup> The vagueness ambiguity of Defendant’s response to this RFP is clear when  
24 juxtaposed with its responses to other RFPs, for example, RFPs 21-22, 24-25, and  
25 27-28. Those requests seek exemplars of forms and notices (RFPs 21, 24, and 27)  
26 and training and policy documents related to the use of those forms and notices  
27 (RFPs 22, 25, and 28). In the Amended Responses to these RFPs, the City states  
28 explicitly that “Defendant previously produced [documents] and will produce  
additional [documents] responsive to this Request, *if any*, in Defendant’s  
possession, custody or control.” (emphasis added). Plaintiffs interpret the inclusion  
of the phrase “if any” to indicate the City’s intention to produce all documents in  
its possession, custody, and control that are responsive to those requests. The City  
does not include that language in this response.



1 The lack of specificity in its response makes it impossible for Plaintiffs to  
2 know what documents it is producing and whether or to what extent it is  
3 withholding responsive documents, which is exactly what the requirement of Rule  
4 34 aims to prevent. *See DeSilva*, 2020 WL 5947827, at \*9. *See also* 2015  
5 Amendment Adv. Comm. Note to Fed. R. Civ. P. 34(b)(2)(C).

6 As with other requests, Plaintiffs' concern about the sufficiency of its  
7 written responses and Defendant's production is not merely speculative. First,  
8 over a year ago, the City represented to Plaintiffs and this Court that it had  
9 produced "Policy Related Documents" including "policies, procedures, directives,  
10 manuals, and special orders related to LAMC 56.11 and ENCAMPMENT  
11 CLEANUPS, including but not limited to the seizure, storage or destruction of  
12 people's belongings pursuant to LAMC 56.11." Myers Decl., ¶¶14-16. Similar to  
13 the City's refusal to state that it is producing *all* responsive documents, Defendant  
14 stated only that it was producing "policy documents." Plaintiffs requested the City  
15 confirm it was producing *all* policy documents in its possession, custody or  
16 control, and conditioned an extension of the City's time to respond to the motion to  
17 compel on the City's agreement that it would do so. The City accepted the  
18 extension and thereafter, produced policy documents that included: 1) the publicly-  
19 available council file for LAMC 56.11, as well as ten other city council motions  
20 the City cherry-picked based on undisclosed criteria on topics as diverse as the  
21 passage of a new ordinance related to storage of property in parks,<sup>12</sup> the City's  
22 Administrative Citation Program, and an ordinance that severely restricted living in  
23 vehicles; 2) LAPD policies and directives; and 3) a printout of the publicly  
24 available version of Los Angeles Municipal Code Article 6, which includes LAMC  
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26 <sup>12</sup> Notably, the City did not produce the Standard Operating Protocols related  
27 to the implementation of this ordinance at the time it produced the publicly-  
28 available council file for the ordinance. The City has since produced this  
document, ostensibly in response to this RFP.

1 56.11. *Id.* The City did not produce any internal policies, procedures, manuals, or  
2 other policy documents from LA Sanitation. *Id.*

3 Eight months later, after discovery formally commenced, the City produced  
4 a large number of LA Sanitation policies and procedures related to Encampment  
5 cleanups and the enforcement of LAMC 56.11 that it had previously not produced,  
6 making it clear that the City had not, in fact, produced all responsive documents in  
7 January 2020. Now, similar to its ambiguous statement in January, the City again  
8 refuses to state explicitly that it is producing *all* responsive documents in its  
9 possession, custody or control, or whether it is withholding any documents based  
10 on its objections.

11 In fact, Plaintiffs are aware of at least some additional documents Defendant  
12 has inexplicably still failed to produce. For example, in one of the trainings  
13 conducted by LA Sanitation on LAMC 56.11, the ordinance at issue in this  
14 litigation, the City identifies three laws/orders related to LAMC 56.11: the  
15 Ordinance itself, the 56.11 protocols, and an Executive Directive #16, which  
16 provides the “mandate for HOPE/PUBLIC Right-of-Way Enforcement  
17 Teams.” *See* Myers Decl., ¶ 65, Exh. AO. [slides of trainings] While Defendant  
18 has now produced multiple copies of the first two documents, it has not produced  
19 any document that constitutes Executive Directive #16, even though by the City’s  
20 admission, it is a “directive” related to Encampment Cleanups and therefore fits  
21 squarely within the request. *See also id.* (additional training documents similarly  
22 referencing Executive Directive #8). *See In re: Rivera*, 2017 U.S. Dist. LEXIS  
23 229538, at \*8 (motion to compel may be granted where plaintiff can identify a  
24 specific document that has been withheld).

25 To the extent the City asserts that it has not finished its production of  
26 responsive documents, this itself is a violation of Rule 34(b)(2)(B), which requires  
27 the City to specifically identify a “reasonable time” it will produce responsive  
28

documents. Fed. R. Civ. P. 34(b)(2)(B); *see also* 2015 Amendment Adv. Comm. Note to Fed. R. Civ. P. 34(b)(2)(B) (“the production must be completed either by the time for inspection specified in the request or by another reasonable time specifically identified in the response. When it is necessary to make the production in stages the response should specify the beginning and end dates of the production.”). Plaintiffs have repeatedly requested a date certain under Rule 34 for the completion of production, in an attempt to avoid this motion practice. Defendant has simply ignored this request and continues to engage in an interminable rolling production of documents. At this point, Defendant has far exceeded a “reasonable time” to produce responsive documents, since the City first produced policy documents in January 2020, these requests were formally propounded in July 2020 (after being provided to Defendant in October 2019). *See Maiorano*, 2017 WL 4792380, at \*2.

**h. Plaintiffs’ Request is Not Overbroad**

Although Defendant has not stated whether it is withholding documents on the basis of objection, Defendant has maintained its objection that the request is overbroad because it seeks documents going back to April 2016, when LAMC 56.11 was amended. Defendant bears the burden of showing that this request should be denied on the basis of overbreadth, which it cannot do here. *See Thomas v. Cate*, 715 F. Supp. 2d. 1012, 1032 (E.D. Cal. 2010). As described above, three years of policy documents is more than reasonable for purposes of *Monell* discovery. *See Medora*, 2007 WL 9810901 at \*8 (granting five years of policy documents as part of *Monell* discovery). This is especially true in the context of this case, given that the violation of Plaintiffs’ constitutional rights is only the latest in a long line of other claims against the City for similar violations. *See SAC at ¶¶ 17-19* (Dkt. 43) (describing the history of claims against the City for similar violations to the ones raised by Plaintiffs). It is highly relevant whether and to what

1 extent the City amended its policies in response to those prior complaints. *See*  
2 *Thomas*, 715 F. Supp. 2d at 1032 (granting a request for information going back  
3 nearly thirty years, where “in the context of th[e] action,” the requested  
4 information was “necessary to conduct a comparative analysis of the operation” at  
5 issue in the litigation and such analysis was “clearly relevant to Petitioner’s  
6 claims”).

7 **i. Plaintiffs’ Narrow Request is Proportional to the Needs of the**  
8 **Case**

9 To the extent Defendant is withholding any documents on the basis that the  
10 request is not proportional to the needs of this case, Defendant’s objection and  
11 subsequent meet and confer efforts provided no information “clarifying,  
12 explaining, and supporting its objection” that the production of policy documents  
13 related to City activities was not proportional to the needs of the case, based on the  
14 factors outlined in Rule 26. *Duran*, 258 F.R.D. at 378.

15 But even if the City had articulated a basis for asserting that the production  
16 of these documents was burdensome, the request would still be proportional to the  
17 needs of the case. As discussed in detail above, the issues at stake in this litigation  
18 are of constitutional significance; the amount of controversy is largely irrelevant  
19 given that Plaintiffs primarily seek prospective relief to put an end to the City’s  
20 unconstitutional practices; and the City of Los Angeles has far more resources than  
21 the seven unhoused individuals whose belongings were seized and the volunteer  
22 organization whose resources go to replacing those belongings. *See supra*,  
23 Plaintiffs’ Argument re: Request No. 2. The other factors also weigh heavily in  
24 Plaintiffs’ favor. *See* Fed. R. Civ. Pro. 26(b)(1).

25 **i. Parties’ relative access to relevant information**

26 Defendant should comply with discovery requests where Plaintiff has no  
27 alternative source for critical information. *Lamon*, 2010 U.S. Dist. LEXIS 122479,  
28 \*7-8 (compelling production of documents, despite burden to Defendant because

1 Plaintiff has no other source of this information). Here, the City is the custodian of  
2 its own internal policies and procedures. Without the City's cooperation, Plaintiffs  
3 have no access to these documents to which they are entitled.<sup>13</sup>

4 **ii. Importance of the discovery in resolving the issues**

5 The documents requested go directly to the central issues in this case.  
6 Plaintiffs seek to enjoin the City's unconstitutional customs, policies and practices  
7 related to practices of seizing and destroying people's belongings, primarily during  
8 encampment cleanups. *See* Myers Decl., Exh. I, February Order. Therefore, the  
9 City's written policies and procedures related to those cleanups could ultimately be  
10 dispositive of one of the main issues in the case: whether the policies as written,  
11 violate the Constitution. Similarly, the City's written policies and procedures  
12 around encampment cleanups could establish *Monell* liability, which is required for  
13 Plaintiffs' claims under Section 1983. Under *Monell*, a city can be held liable for  
14 depriving individuals of their constitutional rights only if the deprivation occurred  
15 pursuant to a governmental policy, practice or custom. 436 U.S. at 690-691. This  
16 can be based on an official policy, practice or custom, or when a policy, practice or  
17 custom is so widespread that it has been unofficially adopted. *Id.* As such, the  
18 written policies and procedures go directly to this central issue in this case.

19 **iii. Whether the burden or expense of the proposed**  
20 **discovery outweighs its likely benefit**

21 Defendant objects that the burden of producing documents responsive to  
22 Plaintiffs' request is too high because the documents sought date back "three years  
23 before the specific alleged incidents occurred" and "outweighs the benefit of such  
24 discovery to" specific claims as alleged in the SAC. Yet it fails to provide any

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25  
26 <sup>13</sup> Notably, in January 2020, nearly every policy document related to LA  
27 Sanitation that was produced by the City was publicly available through the City  
28 Clerk's website. *See* Myers Decl. The policy documents it withheld originally and  
*Id.* produced only months later were the ones to which Plaintiffs had no other access.

1 explanation why the production of policy documents that dictate how the City  
2 conducts cleanups — which by the City’s own admission, it performs thousands of  
3 each year — is burdensome, let alone why the purported burden or expense  
4 outweighs the benefit of these critical documents. It should not be burdensome to  
5 produce all policies that dictate how those cleanups are currently conducted. Nor  
6 should it be burdensome to produce policy documents going back only three years  
7 prior to the date of the incident (and only three and a half years prior to the date  
8 Plaintiffs provided Defendant with RFPs requesting responsive documents). *See In*  
9 *re Citimortgage*, 2012 WL 10450139 at \*4 (quoting *Herring v. Clark*, No. 1:05-cv-  
10 0079-LJO-SMS-PC, 2011 WL 2433672, at \*9 (E.D. Cal. June 14, 2011)) (“[L]arge  
11 corporations and institutions are expected to have the means for locating  
12 documents requested in legal matters.”). This is especially true here, since the City  
13 has been involved in active litigation about these issues since 2011. In fact, the  
14 City already produced some policy documents that were written in 2012 and even  
15 the documents produced by the City in January 2020 included documents from  
16 earlier than 2016.

17 The fact that discovery may be burdensome is not sufficient grounds for  
18 objection when the information requested is essential to the case. *See Gutierrez v.*  
19 *Mora*, No. CV 18-781-KS, 2019 WL 8060079, at \*9 (C.D. Cal. Dec. 9, 2019)  
20 (Benefit outweighs burden where the information sought regarding Defendant’s K-  
21 9 policies and procedures is essential to Plaintiff’s *Monell* claims and Defendant  
22 provides no evidence of burden or expense). The burdensome argument  
23 additionally fails when each request is narrowly tailored with temporal limitations.  
24 *See Fulfillium*, 2018 WL 6118433, at \*5 (Defendant’s objections that requests  
25 were overbroad and caused undue burden are overruled because each request “was  
26 limited to a discrete, time-limited topic.”).



Moreover, Defendant offers nothing more than a boilerplate objection to Plaintiffs' request, providing no substantial evidence of burden or expense. Boilerplate objections that discovery is burdensome are insufficient. *Leibovitz v. City of N.Y.*, No. 15 Civ. 546 (LGS)(HBP), 2017 U.S. Dist. LEXIS 15662, at \*4 (S.D.N.Y. Feb. 3, 2017) (citing *A. Farber & Partners, Inc.*, 234 F.R.D. at 188 (“[G]eneral or boilerplate objections such as ‘overly burdensome and harassing’ are improper -- especially when a party fails to submit any evidentiary declarations supporting such objections.”); *See also Paulsen*, 168 F.R.D. at 289; *Panola Land Buyers Ass’n v. Shuman*, 762 F.2d 1550, 1559 (11th Cir. 1985) (conclusory recitations of expense and burdensomeness are not sufficiently specific to demonstrate why requested discovery is objectionable). As discussed above, these basic documents are essential to Plaintiffs' case and are therefore proportionate to the needs of the case, irrespective of the City's unsupported assertion of burden.

**j. There is No Merit to the City's Other Objections**

**i. Claims of privilege**

The City incorporates a general objection into the request “insofar as said Request seeks the disclosure of communications or information protected by the attorney-client privilege, the attorney work product doctrine, the official information privilege, or any other privilege.” *See* page 2 of Amended Written Responses. As discussed above, despite numerous requests Defendants have not produced a privilege log. “Boilerplate objections or blanket refusals inserted into a response to a Rule 34 request for production of documents are insufficient to assert a privilege.” *Burlington Northern & Santa Fe Ry. Co.*, 408 F.3d at 1149; *see also DeSilva*, 2020 WL 5947827, at \*2 (citing *Sanchez*, 2020 WL 3542328, at \*2 ). Defendant has therefore waived this objection. *Burlington Northern & Santa Fe Ry. Co.*, 408 F.3d at 1149.

**ii. Other boilerplate general objections**

In addition to the specific objections to relevance and proportionality, the City provides three pages of general boilerplate objections. The City simply incorporates these objections by reference into each of the requests for production, without providing any basis for the specific objection or even an assessment of whether the objection specifically applies to the request. The use of boilerplate objections in this way is inappropriate and an abuse of the discovery process. *Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. *See also Eisenhower Med. Ctr.*, 2020 U.S. Dist. LEXIS 218716, at \*9 (citing *A. Farber & Partners, Inc.*, 234 F.R.D. at 188 (faulting defendant for making “boilerplate objections to almost every single request for production, including broad relevancy objections, objections of ‘overly burdensome and harassing,’ ‘assumes facts not in evidence,’ privacy, and attorney-client privilege/work product protection”). The City’s boilerplate general objections do not apply to this specific Request for Production (and further illustrate the extent to which this request is narrow and tailored to the needs of this case). And even if they did apply, the City refused to clarify which of the objections (if any) applied to this request, let alone the facts necessary to support its application, even after months of requests by Plaintiffs for the City to do so as required by Rule 34. The City has therefore waived the objection. *See e.g., Bosley*, 2016 WL 1704159, at \*5, (Defendant waived blanket objections by failing to provide details of the objections as required by Rule 34(b)(2)(B)).

**k. Plaintiffs’ Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 11 within 21 days or, if the City asserts it has produced all documents responsive to the request, compelling Defendant to provide a complete, explicit response as to the search conducted to identify and

1 produce responsive documents and to attest to the finality of their production, as  
2 required by Rule 34.

3 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 11:**

5 RFP11 seeks: “All policies, procedures, directives, manuals, bulletins, and  
6 special orders, related to conducting ENCAMPMENT CLEANUPS, including but  
7 not limited to the seizure or destruction of property belonging to homeless people  
8 [from 2016 to present].” (Emphasis added). Plaintiffs argue that the documents  
9 are relevant both for establishing *Monell* liability as well as establishing the City’s  
10 practices for purposes of prospective relief under the Declaratory Judgments Act.  
11 Plaintiffs attempt to justify requesting documents from 2016 to the present on a  
12 similar basis: “Current policies are relevant for purposes of prospective relief;  
13 policies that were in place at the time the discrete incidents in the complaint  
14 occurred are relevant for purposes of establishing *Monell* liability; and policies that  
15 were in place prior to the individual incidents show whether and to what extent the  
16 City amended its policies in response to prior complaints, which is also relevant for  
17 *Monell* liability.”

18 Plaintiffs’ arguments fail. First, *Monell* cannot serve as the relevance theory  
19 because the facts related to *Monell* are not in dispute and in fact, the City has  
20 offered to stipulate to *Monell* liability. *See Gonzalez v. City of Schenectady*, No.  
21 1:09-CV-1434, 2011 U.S. Dist. LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011)  
22 (“additional discovery related to strip searches is unnecessary as it is undisputed  
23 that the search was conducted pursuant to the City’s written policy, which had been  
24 in effect since 1999”); Ursea Decl. ¶¶2-4; Ex. 1, 2.

25 Second, declaratory relief cannot serve as a valid relevance theory  
26 because only current policies and practices are relevant for prospective relief—but  
27 the current practices are not in dispute and in any event, historical documents would  
28

1 not be probative of current policies and practices. *See Bayer v. Nieman Marcus*  
2 *Group, Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as  
3 to relevance based on *Monell* and declaratory relief are equally applicable here,  
4 Defendant incorporates by reference its argument as to RFP 2.

5 The documents are also not proportional to the needs of the case. To be  
6 clear, Plaintiffs are **not** contending that the City failed to produce documents  
7 responsive to this request. As Plaintiffs concede, “the City produced a large number  
8 of LA Sanitation policies and procedures related to Encampment cleanups and the  
9 enforcement of LAMC 56.11...” In fact, the City has done far more than that in  
10 response to this RFP. Not only did the City produce LASAN policies, it also  
11 produced similar documents from other City departments, including LAPD. *See*  
12 *Ursea Decl.* ¶42. In addition to conducting a reasonable investigation to find  
13 responsive documents, the City agreed to collect email communications from  
14 LAPD, LASAN, UHRC, and the City Attorney’s Office—using the 30 custodians  
15 and broad search terms proposed by Plaintiffs. *Ursea Decl.* ¶¶19, 23, 32, 34, 37,  
16 43. Furthermore, the City has repeatedly told Plaintiffs that it has not withheld  
17 non-privileged responsive documents that were uncovered during its investigation,  
18 even if the documents pre-dated the Plaintiffs’ incidents. *Ursea Decl.* ¶¶8, 21(d).  
19 As Plaintiffs acknowledge: “[T]he City already produced some policy documents  
20 that were written in 2012 and even the documents produced by the City in January  
21 2020 included documents from earlier than 2016.”

22 Nevertheless, Plaintiffs move to compel on the basis that the City should  
23 unequivocally state in its response to this RFP that it has produced “all” responsive  
24 documents. But given that the relevance of policies and procedures other than  
25 LAMC 56.11 and the Protocols is, at best, minimal, it is not proportional to the  
26 needs of this case to require the City to identify each and every policy, manual etc.

27 The example of the “missing” policy document that Plaintiffs identify  
28

underscores the overbreadth of the request and from a proportionality perspective, and the unreasonableness of the demand that the City unequivocally state that it has produced “all” responsive documents. Specifically, Plaintiffs contend that the City failed to produce “Executive Directive No. 16,” which Plaintiffs saw referenced in a presentation produced by the City. Ursea Decl. ¶46; Ex. 26. But Executive Directive No. 16 is document from 2016 that does not even mention encampment cleanups, LAMC 56.11, or seizure or destruction of homeless persons’ belongings. It is entitled “Implementation of the Comprehensive Homeless Strategy” and discusses how the City plans to address homelessness. *Id.* The majority of the document discusses a “housing first” approach and the City’s desire to decriminalize homelessness. *Id.* Even under the most expansive and charitable reading of RFP 11, the closest Executive Directive No. 16 comes to arguably being “responsive” is one fleeting reference to the City’s desire to “implement a street-based plan that protects public health and public safety along with the civil rights of people experiencing homelessness.” *Id.* It appears that Plaintiffs read this as being “related to” encampment cleanups—but that is interpretation is speculative at best, and certainly far from obvious.

Because the law and analysis as to proportionality are equally applicable here, Defendant incorporates by reference its argument as to RFP 2.

Given the overbreadth of the RFP on its face, as well as Plaintiffs’ apparent—even broader—expectation of what constitutes a responsive document, it would not be proportional to compel the City to locate, review, and produce “all” responsive documents to this RFP. As to Plaintiffs’ argument that the City has “waived” privilege, the City incorporates by reference its argument on that issue with respect to RFP 1.

**REQUEST FOR PRODUCTION NO. 12:**

All policies, procedures, directives, manuals, bulletins, and special orders related to LAMC 56.11, including but not limited to the handling of people's belongings pursuant to LAMC 56.11

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad in seeking documents dating back to April 2016, three years before Plaintiff El-Bey's specific incidents occurred as alleged in the SAC. Defendant objects that the Request is not proportional to the needs of the case, insofar as the burden or expense of searching for and producing documents dating back to April 2016, three years before the specific alleged incidents occurred, outweighs the benefit of such discovery to Plaintiff El Bey's specific claims alleged in the SAC. Subject to and without waiving these objections, Defendant responds as follows: Defendant previously produced documents responsive to this Request and will produce additional responsive documents in Defendant's possession, custody or control.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad in seeking documents dating back to April 2016, three years before Plaintiffs' specific incidents occurred as alleged in the SAC. Defendant objects that the Request is not proportional to the needs of the case, insofar as the burden or expense of searching for and producing documents dating back to April 2016, three years before the specific alleged incidents occurred, outweighs the benefit of such discovery to Plaintiffs' specific claims alleged in the SAC. Subject to and without waiving these objections, Defendant responds as follows: Defendant previously produced documents



1 responsive to this Request and will produce additional responsive documents in  
2 Defendant's possession, custody or control.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 12:**

5 Plaintiffs seek the production of policies and procedures related to Los  
6 Angeles Municipal Code 56.11. As with RFP 11, these documents are highly  
7 relevant to the central issue of this case and are relevant both for establishing  
8 *Monell* liability as well as establishing the City's practices for purposes of  
9 prospective relief under the Declaratory Judgments Act. In both instances, in  
10 addition to showing that the City's seizure and destruction of property is  
11 unconstitutional, Plaintiffs also challenge the constitutionality of LAMC 56.11.  
12 Plaintiffs allege that the ordinance is unconstitutional, not only on its face, as with  
13 the now-enjoined "bulky item provision," but also that the ordinance is  
14 unconstitutional, as applied. Plaintiffs therefore seek the written policies and  
15 procedures related to the application of the ordinance.

16 Plaintiffs request documents going back to April 2016 when the current  
17 version of the ordinance was passed. This is less than two years prior to the date  
18 this litigation was filed and only three and a half years prior to the date Plaintiffs  
19 provided Defendant with these RFPs. The request encompasses all policies and  
20 procedures currently in effect, any policies that were in effect at the time of the  
21 Specific Incidents referenced in the SAC, and policies that have been in effect  
22 since LAMC 56.11 was amended. Current policies are relevant for purposes of  
23 prospective relief; policies that were in place at the time the discrete incidents in  
24 the complaint occurred are relevant for purposes of establishing *Monell* liability;  
25 and policies that were in place prior to the individual incidents show whether and  
26 to what extent the City amended its policies in response to prior complaints, which  
27 is also relevant for *Monell* liability. *Monell*, 436 U.S. at 690-691; *See also Henry*,

1 132 F.3d at 519 (*Monell* claim supported by “almost identical incident as that  
2 complained of” which put Defendant on notice as to future abuses); *Humphries*,  
3 562 U.S. at 31 (*Monell* requirement applies to prospective relief (both declaratory  
4 and injunctive) as well as damages claims).

5 Defendant does not specifically object to the request on the basis of  
6 relevance, nor can it; written policies and procedures are the type of discovery  
7 always requested and used in any *Monell* or prospective relief case against a  
8 government entity. *See e.g., Medora*, 2007 WL 9810901, at \*8 (granting  
9 Plaintiff’s motion to compel the production of policies and procedures to prove  
10 *Monell* liability, because “a 5-year time limitation adequately serves Plaintiff’s  
11 interests in obtaining relevant documents while avoiding the imposition of undue  
12 burden and expense on Defendants”).

13 Instead, the City objects that the request is overbroad and not proportionate  
14 to the needs of the case. While maintaining its objections, Defendant has produced  
15 a patchwork of internal policies, procedures, manuals, bulletins, and directives  
16 since October 2019 and responded to the request by stating “Defendant previously  
17 produced documents responsive to this Request and will produce additional  
18 responsive documents in Defendant’s possession, custody or control.”

19 **a. Defendant’s Written Response Does Not Comply With Rule 34**

20 As with RFP 11, this written response does not comply in any way with  
21 Federal Rule of Civil Procedure Rule 34(b)(2). Defendant has maintained its  
22 objections, including myriad general objections, without identifying whether and to  
23 what extent it is withholding documents responsive to the request. It has also  
24 refused to state that it will produce all documents in its possession, custody, and  
25 control. Neither are allowable under Rule 34(b)(2). *See DeSilva*, 2020 WL  
26 5947827, at \*9. Finally, Defendant has also refused to state when it will complete  
27 its production of documents, even though Rule 34(b)(2)(B) requires the City to  
28

1 specifically identify a “reasonable time” it will produce responsive documents.  
2 Fed. R. Civ. Pro. 34(b)(2)(B); *see also* *Maiorano*, 2017 WL 4792380, at \*2  
3 (granting request to compel production of responsive documents within 14 days,  
4 based on the responding party’s failure to provide any more detail other than a  
5 statement that it would produce “additional responsive documents”).

6 Plaintiffs’ concern about the sufficiency of its written responses and  
7 Defendant’s production articulated in its arguments related to RFP 11 apply with  
8 equal force here. The documents identified by Plaintiffs responsive to RFP 11  
9 would also have been responsive to RFP 12. Because the City’s written responses  
10 are deficient, Plaintiffs have no way of knowing whether other documents have  
11 been withheld or have not yet been produced (or why these discrete policy  
12 documents have not been produced). Despite repeated requests since July 2020  
13 and an amendment to the written responses following a lengthy meet and confer  
14 process, the City has failed to provide Plaintiffs with written responses that comply  
15 with Rule 34. As such, the Court should order Defendants to produce the  
16 documents and provide a statement, under penalty of perjury, attesting to the  
17 completeness of the production.

18 **b. Plaintiffs’ Request is Not Overbroad**

19 Although Defendant has not stated whether it is withholding documents on  
20 the basis of this objection, Defendant has maintained its objection that the request  
21 is overbroad because it seeks documents going back to April 2016, when LAMC  
22 56.11 was amended. Defendant bears the burden of showing that this request  
23 should be denied on the basis of overbreadth, which it cannot do here. *See*  
24 *Thomas*, 715 F. Supp. 2d. at 1032. As described above, three years of policy  
25 documents is more than reasonable for purposes of *Monell* discovery. *See Medora*,  
26 2007 WL 9810901, at \*8 (granting five years of policy documents as part of  
27 *Monell* discovery). This is especially true in the context of this case, given that the  
28

1 violation of Plaintiffs’ constitutional rights is only the latest in a long line of other  
2 claims against the City for similar violations. *See* SAC at ¶¶ 17-19 (Dkt. 43)  
3 (describing the history of claims against the City for similar violations to the ones  
4 raised by Plaintiffs). It is highly relevant whether and to what extent the City  
5 amended its policies in response to those prior complaints. *See Thomas*, 715 F.  
6 Supp. 2d at 1032 (granting a request for information going back nearly thirty years,  
7 where “in the context of th[e] action,” the requested information was “necessary to  
8 conduct a comparative analysis of the operation” at issue in the litigation and such  
9 analysis was “clearly relevant to Petitioner’s claims”). This request is limited to  
10 both a discrete subject and subject to significant temporal restrictions. Therefore,  
11 it is not overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5 (Defendant’s  
12 objections that requests were overbroad and caused undue burden are overruled  
13 because each request “was limited in to a discrete, time-limited topic.”).

14 **c. Plaintiffs’ Narrow Request is Proportional to the Needs of the**  
15 **Case**

16 To the extent Defendant is withholding any documents on the basis that the  
17 request is not proportional to the needs of this case, Defendant’s objection and  
18 subsequent meet and confer efforts provided no information “clarifying,  
19 explaining, and supporting its objection” that the production of policy documents  
20 related to City activities was not proportional to the needs of the case, based on the  
21 factors outlined in Rule 26. *Duran*, 258 F.R.D. at 378. But even if the City had  
22 provided a basis for asserting that the production of these documents was  
23 burdensome, the request would still be proportional to the needs of the case. As  
24 discussed in detail above, the issues at stake in this litigation are of constitutional  
25 significance; the amount of controversy is largely irrelevant given that Plaintiffs  
26 primarily seek prospective relief to put an end to the City’s unconstitutional  
27 practices; the City of Los Angeles has far more resources than the seven unhoused  
28 individuals whose belongings were seized and the volunteer organization whose

resources go to replacing those belongings, and access to its own internal policies. *See supra*, Plaintiffs' Argument re: Request No. 2. The other factors also weigh heavily in Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).

**i. Importance of the discovery in resolving the issues**

The documents requested go directly to the central issues in this case. Plaintiffs bring an as-applied challenge to LAMC 56.11; therefore, the question of how it is applied, which may be answered in part by the City's policies and procedures, is central to this case. The City's written policies and procedures related to the enforcement of LAMC 56.11 could establish *Monell* liability, which is required for Plaintiffs' claims under Section 1983. *Monell*, 436 U.S. at 690-691. As such, written policies and procedures may prove critical in resolving a central issue in this case.

**ii. Whether the burden or expense of the proposed discovery outweighs its likely benefit**

Defendant objects that the burden of producing documents responsive to Plaintiffs' request is too high because the documents sought date back "three years before the specific alleged incidents occurred" and "outweighs the benefit of such discovery to" specific claims as alleged in the SAC. As explained more fully in response to RFP 11, boilerplate objections that discovery is burdensome are insufficient. *Leibovitz*, 2017 U.S. Dist. LEXIS 15662, at \*4. And the fact that discovery may be burdensome is not sufficient grounds for objection when the information requested is essential to the case. *Gutierrez*, 2019 WL 8060079, at \*9 (Benefit outweighs burden where the information sought regarding Defendant's K-9 policies and procedures is essential to Plaintiff's *Monell* claims and Defendant provides no evidence of burden or expense). Moreover, Plaintiffs' request is narrowly tailored to a discrete topic and with significant temporal limitations. *See Fulfillium*, 2018 WL 6118433, at \*5. It is therefore proportionate to the needs of the case.

**d. There is No Merit to the City's Other Objections**

**i. Claims of privilege**

The City incorporates a general objection into the request “insofar as said Request seeks the disclosure of communications or information protected by the attorney-client privilege, the attorney work product doctrine, the official information privilege or any other privilege.” Myers Decl., ¶ 3, Exh. C. As discussed above, despite numerous requests Defendants have not produced a privilege log. Defendant has therefore waived this objection. *Burlington Northern & Santa Fe Ry. Co.* at 1149. *See also DeSilva*, 2020 WL 5947827, at \*2.

**ii. Other boilerplate general objections**

In addition to the specific objections to relevance and proportionality, the City provides three pages of general boilerplate objections. The City simply incorporates these objections by reference into each of the requests for production, without providing any basis for the specific objection or even an assessment of whether the objection specifically applies to the request. To the extent any of them even applied to this RFP, Defendant therefore waived these objections. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

**e. Plaintiffs' Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 12 within 21 days or, if the City asserts it has produced all documents responsive to the request, compelling Defendant to provide a complete, explicit response as to the search conducted to identify and produce responsive documents and to attest to the finality of their production, as required by Rule 34.

**DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION NO. 12:**

Similar to RFP 11, RFP 12 seeks “All policies, procedures, directives, manuals, bulletins, and special orders related to LAMC 56.11, including but not



1 limited to the handling of people’s belongings pursuant to LAMC 56.11 [from  
2 2016 to the present].” (Emphasis added). Plaintiffs argue that the documents are  
3 relevant both for establishing *Monell* liability as well as establishing the City’s  
4 practices for purposes of prospective relief under the Declaratory Judgments Act.  
5 Plaintiffs’ arguments fail.

6 First, *Monell* cannot serve as the relevance theory because the facts related  
7 to *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell*  
8 liability. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist.  
9 LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“additional discovery related to  
10 strip searches is unnecessary as it is undisputed that the search was conducted  
11 pursuant to the City’s written policy, which had been in effect since 1999”); *Ursea*  
12 Decl. ¶¶2-4; Ex. 1, 2.

13 Second, declaratory relief cannot serve as a relevance theory because only  
14 current policies and practices are relevant for prospective relief—but the current  
15 practices are not in dispute and in any event, historical documents would not be  
16 probative of current policies and practices. *See Bayer v. Nieman Marcus Group,*  
17 *Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to  
18 relevance based on *Monell* and declaratory relief are equally applicable here,  
19 Defendant incorporates by reference its argument as to RFP 2.

20 The documents are also not proportional to the needs of the case for the  
21 same reasons discussed in the City’s response to RFP 11. To be clear, Plaintiffs  
22 are **not** contending that the City failed to produce documents responsive this  
23 request. Rather, Plaintiffs argue that the City should unequivocally state in its  
24 response to this RFP that it has produced “all” responsive documents. But given  
25 that the relevance of policies and procedures other than LAMC 56.11 and the  
26 Protocols is, at best, minimal, it is not proportional to the needs of this case to  
27 require the City to identify each and every policy, manual etc. Because the law and  
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1 analysis as to relevance and proportionality are equally applicable here, Defendant  
2 incorporates by reference its argument as to RFPs 2 and 11. As to Plaintiffs'  
3 argument that the City has "waived" privilege, the City incorporates by reference its  
4 argument on that issue with respect to RFP 1.

5  
6 **REQUEST FOR PRODUCTION NO. 13:**

7 All policies, procedures, directives, manuals, bulletins, and special orders,  
8 related to storage of property pursuant to LAMC 56.11.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

10 Defendant incorporates the General Objections as though fully set forth here.  
11 Defendant objects that the Request is overbroad in seeking documents dating back  
12 to April 2016, three years before Plaintiff El-Bey's specific incidents occurred as  
13 alleged in the SAC. Defendant objects that the Request is not proportional to the  
14 needs of the case, insofar as the burden or expense of searching for and producing  
15 documents dating back to April 2016, three years before the specific alleged  
16 incidents occurred, outweighs the benefit of such discovery to Plaintiff El Bey's  
17 specific claims alleged in the SAC. Subject to and without waiving these  
18 objections, Defendant responds as follows: Defendant previously produced  
19 documents responsive to this Request and will produce additional responsive  
20 documents in Defendant's possession, custody or control.

21 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

22 Defendant incorporates the General Objections as though fully set forth here.  
23 Defendant objects that the Request is overbroad in seeking documents dating back  
24 to April 2016, three years before Plaintiffs' specific incidents occurred as alleged  
25 in the SAC. Defendant objects that the Request is not proportional to the needs of  
26 the case, insofar as the burden or expense of searching for and producing  
27 documents dating back to April 2016, three years before the specific alleged  
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1 incidents occurred, outweighs the benefit of such discovery to Plaintiffs' specific  
2 claims alleged in the SAC. Subject to and without waiving these objections,  
3 Defendant responds as follows: Defendant previously produced documents  
4 responsive to this Request and will produce additional responsive documents in  
5 Defendant's possession, custody or control.

6 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

7 **NO. 13:**

8 Plaintiffs seek the production of policies and procedures related to the  
9 storage of property seized pursuant to LAMC 56.11. Like the rest of the RFPs  
10 related to policy documents (i.e., RFPs 11-15), the documents sought are relevant  
11 both for establishing *Monell* liability as well as establishing the City's practices for  
12 purposes of prospective relief under the Declaratory Judgments Act. The City's  
13 procedures related to the storage of property is relevant to the issues of: whether  
14 the City provides sufficient due process when it seizes property; the extent to  
15 which the City could provide more process; the City's assertion that storing  
16 property, particularly bulky items, is too burdensome; and the City's compliance  
17 with the State's impound statute, Civil Code Section 2080.1. Finally, some of the  
18 plaintiffs specifically allege that they had difficulty obtaining property that was  
19 impounded pursuant to LAMC 56.11. As with all the policy requests, the requested  
20 time period is relevant to the individual claims, Plaintiffs' burden under *Monell*,  
21 and Plaintiffs' claims for prospective relief. *Monell*, 436 U.S. at 690-691.

22 Defendant again does not specifically object to the request on the basis of  
23 relevance, nor can it; written policies and procedures about issues germane to the  
24 underlying allegations are the type of discovery always requested and used in any  
25 *Monell* or prospective relief case against a government entity. *See e.g., Medora*,  
26 2007 WL 9810901 at \*8. Instead, the City objects that the request is overbroad  
27 and not proportionate to the needs of the case. While maintaining its objections,  
28

1 Defendant has produced a patchwork of internal policies, procedures, manuals,  
2 bulletins, and directives since October 2019 and responded to the request by stating  
3 “Defendant previously produced documents responsive to this Request and will  
4 produce additional responsive documents in Defendant’s possession, custody or  
5 control.”

6 **a. Defendant’s Written Response Does Not Comply With Rule 34**

7 As with the other Policy RFPs, this written response also does not comply in  
8 any way with Federal Rule of Civil Procedure Rule 34(b)(2). Defendant has  
9 maintained its objections, including myriad general objections, without identifying  
10 whether and to what extent it is withholding documents responsive to the request.  
11 It has also refused to state that it will produce all documents in its possession,  
12 custody, and control. Neither are allowable under Rule 34(b)(2). *See DeSilva*,  
13 2020 WL 5947827, at \*9. Finally, Defendant has also refused to state when it will  
14 complete its production of documents, even though Rule 34(b)(2)(B) requires the  
15 City to specifically identify a “reasonable time” it will produce responsive  
16 documents. Fed. R. Civ. Pro. 34(b)(2)(B); *see also Maiorano*, 2017 WL 4792380,  
17 at \*2 (granting request to compel production of responsive documents within 14  
18 days, based on the responding party’s failure to provide any more detail other than  
19 a statement that it would produce “additional responsive documents”).

20 Because the City’s written responses are deficient, Plaintiffs have no way of  
21 knowing whether other documents have been withheld or have not yet been  
22 produced (or why these discrete policy documents have not been  
23 produced). Despite repeated requests since July 2020 and an amendment to the  
24 written responses following a lengthy meet and confer process, the City has failed  
25 to provide Plaintiffs with written responses that comply with Rule 34. As such, the  
26 Court should order Defendants to produce the documents and provide a statement,  
27 under penalty of perjury, attesting to the completeness of the production.  
28

**b. Plaintiffs' Request is Not Overbroad**

As with the rest of the policy requests, the request is “limited to a discrete, time-limited topic” that is germane to critical issues in this case. *Fulfillium*, 2018 WL 6118433, at \*5. Five years of policy documents is not overbroad for a case in which Plaintiffs are required to establish *Monell* liability, *see e.g., Medora*, 2007 WL 9810901 at \*8) and particularly here, given that the violation of Plaintiffs’ constitutional rights is only the latest in a long line of other claims against the City for similar violations. *See* SAC at ¶¶ 17-19 (Dkt. 43) (describing the history of claims against the City for similar violations to the ones raised by Plaintiffs)).

**c. Plaintiffs' Narrow Request is Proportional to the Needs of the Case**

To the extent Defendant is withholding any documents on the basis that the request is not proportional to the needs of this case, Defendant’s objection and subsequent meet and confer efforts provided no information “clarifying, explaining, and supporting its objection” that the production of policy documents related to City activities was not proportional to the needs of the case, based on the factors outlined in Rule 26. *Duran*, 258 F.R.D. at 378. But even if the City had provided a basis for asserting that the production of these documents was burdensome, the request would still be proportional to the needs of the case. As discussed in detail above, the issues at stake in this litigation are of constitutional significance; the amount of controversy is largely irrelevant given that Plaintiffs primarily seek prospective relief to put an end to the City’s unconstitutional practices; and the City of Los Angeles has far more resources than the seven unhoused individuals whose belongings were seized and the volunteer organization whose resources go to replacing those belongings. *See s See supra*, Plaintiffs’ Argument re: Request No. 2. The other factors also weigh heavily in Plaintiffs’ favor. *See* Fed. R. Civ. P. 26(b)(1).

**i. Parties' relative access to relevant information**

Defendant should comply with discovery requests where Plaintiff has no alternative source for critical information. *Lamon*, 2010 U.S. Dist. LEXIS 122479, \*7-8 (compelling production of documents, despite burden to Defendant because Plaintiff has no other source of this information). Here, the City is the custodian of its own internal policies and procedures. Without the City's cooperation, Plaintiffs have no access to these documents to which they are entitled. To the extent the City asserts that Plaintiffs have sought these records from Chrysalis, which is contracted to provide storage, this is irrelevant. First, the City may have additional policies and procedures that dictate its practices, including when it turns property over to Chrysalis. Likewise, the fact that a third party may have documents does not absolve the City of its obligation to produce the same documents in its possession and control.

**ii. Importance of the discovery in resolving the issues**

The documents requested go directly to the central issues in this case. Plaintiffs bring an as-applied challenge to LAMC 56.11; therefore, the question of how it is applied, which may be answered in part by the City's policies and procedures, is central to this case. The City's written policies and procedures related to the enforcement of LAMC 56.11 could establish *Monell* liability, which is required for Plaintiffs' claims under Section 1983. *Monell*, 436 U.S. at 690-691. As such, written policies and procedures may prove critical in resolving a central issue in this case.

**iii. Whether the burden or expense of the proposed discovery outweighs its likely benefit**

Defendant objects that the burden of producing documents responsive to Plaintiffs' request is too high because the documents sought date back "three years before the specific alleged incidents occurred" and "outweighs the benefit of such discovery to" specific claims as alleged in the SAC. As explained more fully in



1 response to RFP 11, boilerplate objections that discovery is burdensome are  
2 insufficient. *Leibovitz*, 2017 U.S. Dist. LEXIS 15662, at \*4. And the fact that  
3 discovery may be burdensome is not sufficient grounds for objection when the  
4 information requested is essential to the case. *Gutierrez*, 2019 WL 8060079, at \*9  
5 (Benefit outweighs burden where the information sought regarding Defendant's K-  
6 9 policies and procedures is essential to Plaintiff's *Monell* claims and Defendant  
7 provides no evidence of burden or expense). Moreover, Plaintiffs' request is  
8 narrowly tailored to a discrete topic and with significant temporal limitations. *See*  
9 *Fulfillium*, 2018 WL 6118433, at \*5. It is therefore proportionate to the needs of  
10 the case.

11 **d. There is No Merit to the City's Other Objections**

12 **i. Claims of Privilege**

13 The City incorporates a general objection into the request "insofar as said  
14 Request seeks the disclosure of communications or information protected by the  
15 attorney-client privilege, the attorney work product doctrine, the official  
16 information privilege or any other privilege." *See* page 2 of Amended Written  
17 Responses. As discussed above, despite numerous requests Defendants have not  
18 produced a privilege log. Defendant has therefore waived this objection.  
19 *Burlington Northern & Santa Fe Ry. Co.* at 1149. *See also DeSilva*, 2020 WL  
20 5947827, at \*2.

21 **ii. Other boilerplate general objections**

22 In addition to the specific objections to relevance and proportionality, the  
23 City provides three pages of general boilerplate objections. The City simply  
24 incorporates these objections by reference into each of the requests for production,  
25 without providing any basis for the specific objection or even an assessment of  
26 whether the objection specifically applies to the request. To the extent any of them  
27  
28

1 even applied to this RFP, Defendant therefore waived these objections. *See*  
2 *e.g., Bosley*, 2016 WL 1704159, at \*5.

3 **e. Plaintiffs' Request for Relief**

4 Plaintiffs are entitled to an order compelling the City to produce  
5 all documents responsive to RFP No. 13 within 21 days or, if the City asserts it has  
6 produced all documents responsive to the request, compelling Defendant to  
7 provide a complete, explicit response as to the search conducted to identify and  
8 produce responsive documents and to attest to the finality of their production, as  
9 required by Rule 34.

10 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**  
11 **NO. 13:**

12 RFP 13 seeks "All policies, procedures, directives, manuals, bulletins, and  
13 special orders, related to storage of property pursuant to LAMC 56.11 [since  
14 2016]." (Emphasis added).

15 Plaintiffs argue that the documents are relevant both for establishing *Monell*  
16 liability as well as establishing the City's practices for purposes of prospective  
17 relief under the Declaratory Judgments Act. Plaintiffs' arguments fail.

18 First, *Monell* cannot serve as the relevance theory because the facts related  
19 to *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell*  
20 liability. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist.  
21 LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) ("additional discovery related to  
22 strip searches is unnecessary as it is undisputed that the search was conducted  
23 pursuant to the City's written policy, which had been in effect since 1999"); *Ursea*  
24 Decl. ¶¶2-4; Ex. 1, 2.

25 Second, declaratory relief cannot serve as a relevance theory because only current  
26 policies and practices are relevant for prospective relief—but the current practices  
27 are not in dispute and in any event, historical documents would not be probative of  
28

1 current policies and practices. *See Bayer v. Nieman Marcus Group, Inc.*, 861 F.3d  
2 853, 868 (9th Cir. 2017). Because the law and analysis as to relevance based on  
3 *Monell* and declaratory relief are equally applicable here, Defendant incorporates  
4 by reference its argument as to RFP 2.

5 Beyond *Monell* and declaratory relief, Plaintiffs advance five additional  
6 relevance theories. All fail.

7 First, Plaintiffs argue that the documents are relevant to show “whether the  
8 City provides sufficient due process when it seizes property.” But Plaintiffs do not  
9 explain how policies related to storage of property, particularly policies that  
10 predate Plaintiffs’ alleged incidents by three years, will help the trier of fact  
11 determine whether Plaintiffs received sufficient due process when their items were  
12 seized during the specific incidents alleged in 2019.

13 Second, Plaintiffs argue that the documents are relevant to show “the extent  
14 to which the City could provide more process.” Again, Plaintiffs do not explain  
15 this conclusory statement. And again, it is far from obvious how policies related to  
16 storage of property, particularly policies that predate Plaintiffs’ alleged incidents  
17 by three years, will help the trier of fact determine whether the City could have  
18 provided more process to Plaintiffs when their items were seized during the  
19 specific incidents alleged in 2019.

20 Third, Plaintiffs argue that the documents are relevant to “the City’s  
21 assertion that storing property, particularly bulky items, is too burdensome.” This  
22 again is a bald conclusory statement, not an explanation of relevance.  
23 Furthermore, while it is true that the City has argued that it does not have the  
24 ability to store all the bulky items it routinely collects from public rights of way,  
25 the Court has concluded that the City’s storage capacity is—as a matter of law—  
26 not relevant to determining the constitutionality of LAMC 56.11. *Lebron Decl.* ¶9,  
27 Ex. 34 (Dkt. No. 36) at p.11; ¶10, Ex. 35 (Dkt. No. 58) at p. 21.

1 Fourth, Plaintiffs argue that the documents are relevant to “the City’s compliance  
2 with the State’s impound statute, Civil Code Section 2080.1.” But again, Plaintiffs  
3 fail to explain how policies regarding storage, particularly ones that predate  
4 Plaintiffs’ alleged incidents, has any bearing on whether the belongings Plaintiffs  
5 allege were destroyed in 2019 should have been stored.

6 Fifth, Plaintiffs note that the “some of the plaintiffs specifically allege that  
7 they had difficulty obtaining property that was impounded pursuant to LAMC  
8 56.11.” It is unclear what claim or defense this allegation is intended to support  
9 and Plaintiff does not explain how policies, manuals, bulletins, etc., particularly  
10 ones from 2016 forward, have any bearing on whether Plaintiffs’ property was  
11 seized in violation of the Fourth Amendment and/or procedural due process.

12 Even if Plaintiffs had articulated a valid relevance theory, this request is not  
13 properly directed toward the City and not proportional to the needs of the case.  
14 Because the law and analysis as to proportionality are equally applicable here,  
15 Defendant incorporates by reference its argument as to RFP 2. The primary  
16 facility at which items removed during cleanups are stored is the Bin. The Bin is  
17 operated by Chrysalis, an independent contractor that provides involuntary and  
18 voluntary storage for homeless individuals under an agreement with LAHSA.  
19 Wong Decl. at ¶14. ECIs deliver non-hazardous property to storage and complete  
20 a chain of custody form transferring custody of property at the storage facility to  
21 Chrysalis. *Id.* Following the transfer, Chrysalis handles the storage, return and  
22 disposition of the property and maintains its own storage records. *Id.* LSD does  
23 not track that information following the transfer of custody at the storage facility.  
24 *Id.*

25 On December 8, 2020, Plaintiffs served a subpoena on Chrysalis requesting  
26 similar information requested by this RFP. Ursea Decl. ¶44, Ex. 24. Chrysalis  
27 responded and produced documents on February 15, 2021. Ursea Decl. ¶45, Ex.  
28

26. *See* Fed. R. Civ. Proc. 26(b)(2) (A court “must limit the frequency or extent of discovery allowed by these rules or by local rule if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained through some other source that is more convenient, less burdensome, or less expensive; ...); *Caballero v. Bodega Latina Corp.*, Case No. 2:17cv-00236-JAD-VCF, 2017 U.S. Dist. LEXIS 116869, at \* 8 (D. Nev. Jul. 25, 2017) (“Courts, thus, have a duty to pare down overbroad discovery requests under Rule 26(b)(2).”). In light of these facts, there is no valid basis on which to compel the City to search for and produce any and all policies from 2016 that “relate to” storage.

Because the law and analysis as to relevance and proportionality are equally applicable here, Defendant incorporates by reference its argument as to RFPs 2 and 11. As to Plaintiffs’ argument that the City has “waived” privilege, the City incorporates by reference its argument on that issue with respect to RFP 1.

**REQUEST FOR PRODUCTION NO. 14:**

All policies, procedures, directives, manuals, bulletins, and special orders, related to HOPE Teams.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad in seeking documents dating back to April 2016, three years before Plaintiff El-Bey’s specific incidents occurred as alleged in the SAC. Defendant objects that the Request is not proportional to the needs of the case, insofar as the burden or expense of searching for and producing documents dating back to April 2016, three years before the specific alleged incidents occurred, outweighs the benefit of such discovery to Plaintiff El Bey’s specific claims alleged in the SAC. Subject to and without waiving these objections, Defendant responds as follows: Defendant previously produced

1 documents responsive to this Request and will produce additional responsive  
2 documents in Defendant's possession, custody or control.

3 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

4 Defendant incorporates the General Objections as though fully set forth here.  
5 Defendant objects that the Request is overbroad in seeking documents dating back  
6 to April 2016, three years before Plaintiffs' specific incidents occurred as alleged  
7 in the SAC. Defendant objects that the Request is not proportional to the needs of  
8 the case, insofar as the burden or expense of searching for and producing  
9 documents dating back to April 2016, three years before the specific alleged  
10 incidents occurred, outweighs the benefit of such discovery to Plaintiffs' specific  
11 claims alleged in the SAC. Subject to and without waiving these objections,  
12 Defendant responds as follows: Defendant previously produced documents  
13 responsive to this Request and will produce additional responsive documents in  
14 Defendant's possession, custody or control.

15 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
16 **NO. 14:**

17 Plaintiffs seek the production of policies and procedures related to HOPE  
18 Teams. Like the rest of the RFPs related to policy documents (i.e., RFPs 11-15),  
19 the documents sought are relevant both for establishing *Monell* liability as well as  
20 establishing the City's practices for purposes of prospective relief under the  
21 Declaratory Judgments Act. The HOPE Teams are a specialized detail made up of  
22 LAPD officers and LA Sanitation employees specifically tasked with enforcement  
23 of LAMC 56.11 in "rapid response" actions during which property is seized and  
24 destroyed.. It is clear that HOPE teams are present at the clean ups, but it is not  
25 transparent which HOPE teams are tasked with what jurisdiction, or how the  
26 HOPE teams are trained or instructed to carry out their work. In addition to the  
27 fact that these are central issues of the case, these documents would be extremely  
28



1 helpful to Plaintiffs in figuring out who to depose Plaintiffs need these documents  
2 in order to effectively question these witnesses. Therefore, as with all the policy  
3 requests, the requested time period is relevant to the individual claims, Plaintiffs'  
4 burden under *Monell*, and Plaintiffs' claims for prospective relief. *Monell*, 436  
5 U.S. at 690-691.

6 Defendant again does not specifically object to the request on the basis of  
7 relevance, and nor can it; written policies and procedures about issues germane to  
8 the underlying allegations are the type of discovery always requested and used in  
9 any *Monell* or prospective relief case against a government entity. *See e.g.*,  
10 *Medora*, 2007 WL 9810901, at \*8. Instead, the City objects that the request is  
11 overbroad and not proportionate to the needs of the case. While maintaining its  
12 objections, Defendant has produced a patchwork of internal policies, procedures,  
13 manuals, bulletins, and directives since October 2019 and responded to the request  
14 by stating "Defendant previously produced documents responsive to this Request  
15 and will produce additional responsive documents in Defendant's possession,  
16 custody or control."

17 **a. Defendant's Written Response Does Not Comply With Rule 34**

18 As with the other Policy RFPs, this written response also does not comply in  
19 any way with Federal Rule of Civil Procedure Rule 34(b)(2). Defendant has  
20 maintained its objections, including myriad general objections, without identifying  
21 whether and to what extent it is withholding documents responsive to the request.  
22 It has also refused to state that it will produce all documents in its possession,  
23 custody, and control. Neither are allowable under Rule 34(b)(2). *See DeSilva*,  
24 2020 WL 5947827, at \*9. Finally, Defendant has also refused to state when it will  
25 complete its production of documents, even though Rule 34(b)(2)(B) requires the  
26 City to specifically identify a "reasonable time" it will produce responsive  
27 documents. Fed. R. Civ. Pro. 34(b)(2)(B); *see also Maiorano*, 2017 WL 4792380,  
28

1 at \*2(granting request to compel production of responsive documents within 14  
2 days, based on the responding party's failure to provide any more detail other than  
3 a statement that it would produce "additional responsive documents").

4 Because the City's written responses are deficient, Plaintiffs have no way of  
5 knowing whether other documents have been withheld or have not yet been  
6 produced (or why these discrete policy documents have not been  
7 produced). Despite repeated requests since July 2020 and an amendment to the  
8 written responses following a lengthy meet and confer process, the City has failed  
9 to provide Plaintiffs with written responses that comply with Rule 34. As such, the  
10 Court should order Defendants to produce the documents and provide a statement,  
11 under penalty of perjury, attesting to the completeness of the production.

12 **b. Plaintiffs' Request is Not Overbroad**

13 As with the rest of the policy requests, the request is "limited to a discrete,  
14 time-limited topic" that is germane to critical issues in this case. *Fulfillium*, 2018  
15 WL 6118433, at \*5. Five years of policy documents is not overbroad for a case in  
16 which Plaintiffs are required to establish *Monell* liability, *see e.g., Medora*, 2007  
17 WL 9810901 at \*8. This is particularly true here, since the HOPE teams were  
18 created in 2016, largely to enforce the ordinance at the center of this case.

19 **c. Plaintiffs' Narrow Request is Proportional to the Needs of the**  
20 **Case**

21 To the extent Defendant is withholding any documents on the basis that the  
22 request is not proportional to the needs of this case, Defendant's objection and  
23 subsequent meet and confer efforts provided no information "clarifying,  
24 explaining, and supporting its objection" that the production of policy documents  
25 related to City activities was not proportional to the needs of the case, based on the  
26 factors outlined in Rule 26. *Duran v. Cisco Sys., Inc.*, 258 F.R.D. 375, 378 (C.D.  
27 Cal. 2009). But even if the City had provided a basis for asserting that the  
28 production of these documents were burdensome, the request would still be

1 proportional to the needs of the case. As discussed in detail above, the issues at  
2 stake in this litigation are of constitutional significance; the amount of controversy  
3 is largely irrelevant given that Plaintiffs primarily seek prospective relief to put an  
4 end to the City's unconstitutional practices; and the City of Los Angeles has far  
5 more resources than the seven unhoused individuals whose belongings were seized  
6 and the volunteer organization whose resources go to replacing those belongings.;  
7 and Plaintiffs have no access to the City's internal policies and procedures, while  
8 the City has complete access to that information. *See supra*, Plaintiffs' Argument  
9 re: Request No. 2. The other factors also weigh heavily in Plaintiffs' favor. *See*  
10 F.R.C.P. 26(b)(1).

11 **i. Importance of the discovery in resolving the issues**

12 The documents requested go directly to the central issues in this case.  
13 Plaintiffs bring an as-applied challenge to LAMC 56.11; therefore, the question of  
14 how the team tasked with enforcing the ordinance is central to the case. Moreover,  
15 the policies and procedures related to the teams that enforced the ordinance against  
16 the Plaintiffs in this case could establish *Monell* liability, which is required for  
17 Plaintiffs' claims under Section 1983. *See Gutierrez*, 2019 WL 8060079, at  
18 \*9(ordering production of policies and procedures related to the K-9 unit, which is  
19 the unit alleged to have violated Plaintiff's constitutional rights).

20 **ii. Whether the burden or expense of the proposed**  
21 **discovery outweighs its likely benefit**

22 Defendant objects that the burden of producing documents responsive to  
23 Plaintiffs' request is too high because the documents sought date back "three years  
24 before the specific alleged incidents occurred" and "outweighs the benefit of such  
25 discovery to" specific claims as alleged in the SAC. As explained more fully in  
26 response to RFP 11, boilerplate objections that discovery is burdensome are  
27 insufficient. *Leibovitz*, U.S. Dist. LEXIS 15662, at \*4. And the fact that discovery  
28 may be burdensome is not sufficient grounds for objection when the information

1 requested is essential to the case. *Gutierrez*, 2019 WL 8060079, at \*9(Benefit  
2 outweighs burden where the information sought regarding Defendant's K-9  
3 policies and procedures is essential to Plaintiff's *Monell* claims and Defendant  
4 provides no evidence of burden or expense). Moreover, Plaintiffs' request is  
5 narrowly tailored to a discrete topic and with significant temporal locations.  
6 Additionally, Defendant's objection fails when each request is narrowly tailored  
7 with temporal limitations. *See Fulfillium*, 2018 WL 6118433, at \*5. It is therefore  
8 proportionate to the needs of the case.

9 **d. There is No Merit to the City's Other Objections**

10 **i. Claims of Privilege**

11 The City incorporates a general objection into the request "insofar as said  
12 Request seeks the disclosure of communications or information protected by the  
13 attorney-client privilege, the attorney work product doctrine, the official  
14 information privilege or any other privilege." *See* page 2 of Amended Written  
15 Responses. As discussed above, despite numerous requests Defendants have not  
16 produced a privilege log. Defendant has therefore waived this objection.  
17 *Burlington Northern & Santa Fe Ry. Co.* at 1149. *See also DeSilva*, 2020 WL  
18 5947827, at \*2.

19 **ii. Other boilerplate general objections**

20 In addition to the specific objections to relevance and proportionality, the  
21 City provides three pages of general boilerplate objections. The City simply  
22 incorporates these objections by reference into each of the requests for production,  
23 without providing any basis for the specific objection or even an assessment of  
24 whether the objection specifically applies to the request. To the extent any of them  
25 even applied to this RFP, Defendant therefore waived these objections. *See*  
26 *e.g., Bosley*, 2016 WL 1704159, at \*5.

**e. Plaintiffs' Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 14 within 21 days or, if the City asserts it has produced all documents responsive to the request, compelling Defendant to provide a complete, explicit response as to the search conducted to identify and produce responsive documents and to attest to the finality of their production, as required by Rule 34.

**DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 14:**

RFP 14 seeks "All policies, procedures, directives, manuals, bulletins, and special orders, related to HOPE Teams (2016 to the present). (Emphasis added).

Plaintiffs argue that the documents are relevant both for establishing *Monell* liability as well as establishing the City's practices for purposes of prospective relief under the Declaratory Judgments Act. Plaintiffs' arguments fail.

First, *Monell* cannot serve as the relevance theory because the facts related to *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell* liability. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist. LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) ("additional discovery related to strip searches is unnecessary as it is undisputed that the search was conducted pursuant to the City's written policy, which had been in effect since 1999"); *Ursea Decl.* ¶¶2-4; Ex. 1, 2.

Second, declaratory relief cannot serve as a relevance theory because only current policies and practices are relevant for prospective relief—but the current practices are not in dispute and in any event, historical documents would not be probative of current policies and practices. *See Bayer v. Nieman Marcus Group, Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to relevance based on *Monell* and declaratory relief are equally applicable here, Defendant incorporates by reference its argument as to RFP 2.

1 Plaintiff also contends that “[i]t is clear that HOPE teams are present at the  
2 clean ups, but it is not transparent which HOPE teams are tasked with what  
3 jurisdiction, or how the HOPE teams are trained or instructed to carry out their  
4 work.” According to Plaintiffs, “these are central issues in the case.” But  
5 Plaintiffs do not explain why the jurisdiction of HOPE teams, or their training or  
6 instruction, particularly in the abstract and wholly untethered to Plaintiffs’ alleged  
7 incidents, from 2016 forward, are “central” issues to the case.

8 Even if Plaintiffs had articulated a valid relevance theory, this request is not  
9 proportional to the needs of the case. Because the law and analysis as to relevance  
10 and proportionality are equally applicable here, Defendant incorporates by  
11 reference its argument as to RFPs 2 and 11. As to Plaintiffs’ argument that the  
12 City has “waived” privilege, the City incorporates by reference its argument on that  
13 issue with respect to RFP 1.

14  
15 **REQUEST FOR PRODUCTION NO. 15:**

16 All policies, procedures, directives, manuals, bulletins, and special orders,  
17 related to the seizure or destruction of property because it constitutes an  
18 “immediate threat to the health and safety of the public.”

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

20 Defendant incorporates the General Objections as though fully set forth here.  
21 Defendant objects that the Request is overbroad in seeking documents dating back  
22 to April 2016, three years before Plaintiff El-Bey’s specific incidents occurred as  
23 alleged in the SAC. Defendant objects that the Request is not proportional to the  
24 needs of the case, insofar as the burden or expense of searching for and producing  
25 documents dating back to April 2016, three years before the specific alleged  
26 incidents occurred, outweighs the benefit of such discovery to Plaintiff El Bey’s  
27 specific claims alleged in the SAC. Subject to and without waiving these  
28



1 objections, Defendant responds as follows: Defendant previously produced  
2 documents responsive to this Request and will produce additional responsive  
3 documents in Defendant's possession, custody or control.

4 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

5 Defendant incorporates the General Objections as though fully set forth here.  
6 Defendant objects that the Request is overbroad in seeking documents dating back  
7 to April 2016, three years before Plaintiffs' specific incidents occurred as alleged  
8 in the SAC. Defendant objects that the Request is not proportional to the needs of  
9 the case, insofar as the burden or expense of searching for and producing  
10 documents dating back to April 2016, three years before the specific alleged  
11 incidents occurred, outweighs the benefit of such discovery to Plaintiffs' specific  
12 claims alleged in the SAC. Subject to and without waiving these objections,  
13 Defendant responds as follows: Defendant previously produced documents  
14 responsive to this Request and will produce additional responsive documents in  
15 Defendant's possession, custody or control.

16 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
17 **NO. 15:**

18 Policy documents related to the destruction of property that constitutes an  
19 immediate threat to public health and safety is relevant to the central issue in this  
20 case, namely whether and to what extent the City destroys property that is, in fact,  
21 an immediate threat to health and safety. This request seeks documents not just  
22 related to the enforcement of LAMC 56.11(g), which purports to allow the City to  
23 seize property from unhoused people that constitutes an immediate threat to public  
24 health and safety, see LAMC 56.11(g), but also any policies that apply more  
25 generally outside the context of LAMC 56.11. These documents are directly  
26 relevant to the issue of when and to what extent the City seizes and destroys  
27  
28

1 property and whether the destruction of property is in fact done because it is an  
2 immediate threat to public health and safety.

3 Defendant again does not specifically object to the request on the basis of  
4 relevance, and nor can it; written policies and procedures about issues germane to  
5 the underlying allegations are the type of discovery always requested and used in  
6 any *Monell* or prospective relief case against a government entity. *See e.g.*,  
7 *Medora*, 2007 WL 9810901, at \*8. Instead, the City objects that the request is  
8 overbroad and not proportionate to the needs of the case. While maintaining its  
9 objections, Defendant has produced a patchwork of internal policies, procedures,  
10 manuals, bulletins, and directives since October 2019 and responded to the request  
11 by stating “Defendant previously produced documents responsive to this Request  
12 and will produce additional responsive documents in Defendant’s possession,  
13 custody or control.”

14 **a. Defendant’s Written Response Does Not Comply With Rule 34**

15 As with the other Policy RFPs, this written response also does not comply in  
16 any way with Federal Rule of Civil Procedure Rule 34(b)(2). Defendant has  
17 maintained its objections, including myriad general objections, without identifying  
18 whether and to what extent it is withholding documents responsive to the request.  
19 It has also refused to state that it will produce all documents in its possession,  
20 custody, and control. Neither are allowable under Rule 34(b)(2). *See DeSilva*,  
21 2020 WL 5947827, at \*9. Finally, Defendant has also refused to state when it will  
22 complete its production of documents, even though Rule 34(b)(2)(B) requires the  
23 City to specifically identify a “reasonable time” it will produce responsive  
24 documents. Fed. R. Civ. Pro. 34(b)(2)(B); *see also Maiorano*, 2017 WL 4792380,  
25 at \*2 (granting request to compel production of responsive documents within 14  
26 days, based on the responding party’s failure to provide any more detail other than  
27 a statement that it would produce “additional responsive documents”).  
28

1 Because the City's written responses are deficient, Plaintiffs have no way of  
2 knowing whether other documents have been withheld or have not yet been  
3 produced (or why these discrete policy documents have not been  
4 produced). Despite repeated requests since July 2020 and an amendment to the  
5 written responses following a lengthy meet and confer process, the City has failed  
6 to provide Plaintiffs with written responses that comply with Rule 34. As such, the  
7 Court should order Defendants to produce the documents and provide a statement,  
8 under penalty of perjury, attesting to the completeness of the production.

9 **b. Plaintiffs' Request is Not Overbroad**

10 As with the rest of the policy requests, the request is "limited to a discrete,  
11 time-limited topic" that is germane to critical issues in this case. *Fulfillium*, 2018  
12 WL 6118433, at \*5. Five years of policy documents is not overbroad for a case in  
13 which Plaintiffs are required to establish *Monell* liability, *see e.g., Medora*, 2007  
14 WL 9810901, at \*8. This is particularly true here, since the HOPE teams were  
15 created in 2016, largely to enforce the ordinance at the center of this case.

16 **i. Plaintiffs' Narrow Request is Proportional to the**  
17 **Needs of the Case**

18 To the extent Defendant is withholding any documents on the basis that the  
19 request is not proportional to the needs of this case, Defendant's objection and  
20 subsequent meet and confer efforts provided no information "clarifying,  
21 explaining, and supporting its objection" that the production of policy documents  
22 related to City activities was not proportional to the needs of the case, based on the  
23 factors outlined in Rule 26. *Duran*, 258 F.R.D. at 378. But even if the City had  
24 provided a basis for asserting that the production of these documents was  
25 burdensome, the request would still be proportional to the needs of the case. As  
26 discussed in detail above, the issues at stake in this litigation are of constitutional  
27 significance; the amount in controversy is largely irrelevant given that Plaintiffs  
28 primarily seek prospective relief to put an end to the City's unconstitutional

1 practices; and the City of Los Angeles has far more resources than the seven  
2 unhoused individuals whose belongings were seized and the volunteer organization  
3 whose resources go to replacing those belongings.; and Plaintiffs have no access to  
4 the City's internal policies and procedures, while the City has complete access to  
5 that information. *See supra*, Plaintiffs' Argument re: Request No. 2. The other  
6 factors also weigh heavily in Plaintiffs' favor. *See* F.R.C.P. 26(b)(1).

7 **ii. Importance of the discovery in resolving the issues**

8 The documents requested go directly to the central issues in this case—  
9 whether the City has a widespread practice and custom of destroying people's  
10 belongings in violation of the Fourth and Fourteenth Amendment. The City  
11 concedes that it destroys property that constitutes an immediate threat to public  
12 health and safety. The question of how that practice is carried out is at the center  
13 of Plaintiffs' allegations. Documents spelling out in more detail the City's  
14 practices, both related to homeless encampment cleanups and more generally,  
15 could be dispositive in this case.

16 **iii. Whether the burden or expense of the proposed**  
17 **discovery outweighs its likely benefit**

18 Defendant objects that the burden of producing documents responsive to  
19 Plaintiffs' request is too high because the documents sought date back "three years  
20 before the specific alleged incidents occurred" and "outweighs the benefit of such  
21 discovery to" specific claims as alleged in the SAC. As explained more fully in  
22 response to RFP 11, boilerplate objections that discovery is burdensome are  
23 insufficient. *Leibovitz*, 2017 U.S. Dist. LEXIS 15662, at \*4. And the fact that  
24 discovery may be burdensome is not sufficient grounds for objection when the  
25 information requested is essential to the case. *Gutierrez*, 2019 WL 8060079, at \*9  
26 (Benefit outweighs burden where the information sought regarding Defendant's K-  
27 9 policies and procedures is essential to Plaintiff's *Monell* claims and Defendant  
28 provides no evidence of burden or expense). Moreover, Plaintiffs' request is

1 narrowly tailored to a discrete topic and with significant temporal limitations. *See*  
2 *Fulfillium*, 2018 WL 6118433, at \*5. It is therefore proportionate to the needs of  
3 the case.

4 **c. There is No Merit to the City's Other Objections**

5 **i. Claims of privilege**

6 The City incorporates a general objection into the request "insofar as said  
7 Request seeks the disclosure of communications or information protected by the  
8 attorney-client privilege, the attorney work product doctrine, the official  
9 information privilege, or any other privilege." *See* page 2 of Amended Written  
10 Responses. As discussed above, despite numerous requests Defendants have not  
11 produced a privilege log. Defendant has therefore waived this objection.  
12 *Burlington Northern & Santa Fe Ry. Co.* at 1149. *See also DeSilva*, 2020 WL  
13 5947827, at \*2.

14 **ii. Other boilerplate general objections**

15 In addition to the specific objections to relevance and proportionality, the  
16 City provides three pages of general boilerplate objections. The City simply  
17 incorporates these objections by reference into each of the requests for production,  
18 without providing any basis for the specific objection or even an assessment of  
19 whether the objection specifically applies to the request. To the extent any of them  
20 even applied to this RFP, Defendant therefore waived these objections. *See*  
21 *e.g., Bosley*, 2016 WL 1704159, at \*5.

22 **d. Plaintiffs' Request for Relief**

23 Plaintiffs are entitled to an order compelling the City to produce  
24 all documents responsive to RFP No. 15 within 14 days or, if the City asserts it has  
25 produced all documents responsive to the request, compelling Defendant to  
26 provide a complete, explicit response as to the search conducted to identify and  
27  
28

1 produce responsive documents and to attest to the finality of their production, as  
2 required by Rule 34.

3 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 15:**

5 RFP 15 seeks: “All policies, procedures, directives, manuals, bulletins, and  
6 special orders, related to the seizure or destruction of property because it  
7 constitutes an “immediate threat to the health and safety of the public [2016 to the  
8 present].” (Emphasis added).

9 Plaintiffs argue that the documents are relevant both for establishing *Monell*  
10 liability as well as establishing the City’s practices for purposes of prospective  
11 relief under the Declaratory Judgments Act. Plaintiffs’ arguments fail.  
12 First, *Monell* cannot serve as the relevance theory because the facts related to  
13 *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell*  
14 liability. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist.  
15 LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“additional discovery related to  
16 strip searches is unnecessary as it is undisputed that the search was conducted  
17 pursuant to the City's written policy, which had been in effect since 1999”); *Ursea*  
18 *Decl.* ¶¶2-4; Ex. 1, 2.

19 Second, declaratory relief cannot serve as a relevance theory because only  
20 current policies and practices are relevant for prospective relief—but the current  
21 practices are not in dispute and in any event, historical documents would not be  
22 probative of current policies and practices. *See Bayer v. Nieman Marcus Group,*  
23 *Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to  
24 relevance based on *Monell* and declaratory relief are equally applicable here,  
25 Defendant incorporates by reference its argument as to RFP 2.

26 Plaintiffs also contend that “[p]olicy documents related to the destruction of  
27 property that constitutes an immediate threat to public health and safety is relevant  
28



1 to the central issue in this case, namely whether and to what extent the City  
2 destroys property that is, in fact, an immediate threat to health and safety.” But the  
3 City does not dispute that LAMC 56.11 permits it to remove and discard such  
4 health and safety hazards without notice. Likewise, the City does not dispute that  
5 it removes and discards such hazards without notice, including during encampment  
6 cleanups. Thus, the relevant issue is not whether the City had such a policy but  
7 whether the items it allegedly destroyed in 2019 were in fact health and safety  
8 hazards. Plaintiffs fail to explain how policies and manuals, particularly those  
9 dating back to 2016, would have any bearing on whether the allegedly destroyed  
10 property in fact posed an immediate threat to health and safety.

11 Even if Plaintiffs had articulated a valid relevance theory, this request is not  
12 proportional to the needs of the case. As Plaintiffs readily concede, the City has  
13 produced many documents responsive to this request. And the City has repeatedly  
14 stated that it will not withhold any such document it identifies in its investigation  
15 or agreed upon email review except on the basis of privilege. There is no valid  
16 basis Plaintiff’s motion to compel. Because the law and analysis as to relevance  
17 and proportionality are equally applicable here, Defendant incorporates by  
18 reference its argument as to RFPs 2 and 11. As to Plaintiffs’ argument that the  
19 City has “waived” privilege, the City incorporates by reference its argument on that  
20 issue with respect to RFP 1.

21 **REQUEST FOR PRODUCTION NO. 16:**

22 All DOCUMENTS related to trainings conducted by or for CITY  
23 employees, agents, or contractors regarding LAMC 56.11, including but not  
24 limited to the seizure, destruction, or storage of property pursuant to LAMC 56.11.  
25 Requested materials include but are not limited to any flyers, email  
26 communications promoting, announcing or otherwise describing the trainings;  
27 calendar invitations for any trainings; attendance or sign-in sheets for any and all  
28

1 trainings; training materials, including but not limited to presentations, handouts,  
2 and manuals; presenter's notes; and notes taken by participants.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

4 Defendant incorporates the General Objections as though fully set forth here.  
5 Defendant objects that the Request is overbroad and burdensome in seeking all  
6 documents regarding trainings, including all email communications, calendar  
7 invites, and notes taken by participants or presenters, all sign in sheets, and flyers  
8 relating to training dating back to April 2016, three years before Plaintiff El-Bey's  
9 specific incidents occurred as alleged in the SAC. Defendant objects that the  
10 Request seeks documents that are not relevant to Plaintiff El-Bey's specific claims  
11 alleged in the SAC relating to incidents occurring on or around January 10, 2019 at  
12 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western.  
13 Defendant further objects that the Request seeks documents that are not relevant to  
14 any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff  
15 KFA's claims seeking any declaration that the City unconstitutionally applied  
16 LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at  
17 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a  
18 ruling that the City's policies and practices are unconstitutional and not that each  
19 past application of those policies and practices to its members was  
20 unconstitutional."). Defendant also objects that the proposed discovery is not  
21 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt.  
22 No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single  
23 incident ... to hold the City liable under *Monell*."). Defendant also objects to the  
24 Request to the extent the Request seeks information protected from disclosure by  
25 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
26 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.

1 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
2 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing all documents regarding trainings, including all email communications,  
6 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
7 flyers relating to training dating back to April 2016 outweighs the benefit of such  
8 information for Plaintiff El Bey's claims, and Defendant's costs or expense in  
9 conducting the search and producing documents greatly exceeds the amount in  
10 controversy for Plaintiff's alleged damages.

11 Specifically, in order to search for and obtain documents responsive to the  
12 Request, Defendant would have to first search for all trainings and determine when  
13 such trainings occurred over a four-year period. Defendant would then have to  
14 investigate the identity of the instructor for each training and whether such training  
15 included a sign-in sheet, a list of participants, the identify of participants and  
16 instructor(s) for each training to conduct follow up searches regarding available  
17 notes and materials, and conduct searches for calendar invites and promotional  
18 emails or flyers for each training.

19 Defendant uses an email system known as CityMail that is based on an  
20 implementation of Google Apps Premier Edition and is used by nearly every City  
21 entity, including 40 different departments. Defendant's CityMail system uses the  
22 Google Vault system for archiving emails. Google Vault is a cloud-based data  
23 storage system; rather than being stored on locally managed servers, the archived  
24 email data is stored on remote servers that are managed by Google, Inc. and are  
25 only accessible to Defendant's office via the internet. In order to search the email  
26 archives, Defendant's Information Technology Agency ("ITA") must formulate a  
27 search query utilizing the search terms and restrictions provided by the requester.  
28

1 Depending on the number and complexity of search terms, the number of email  
2 accounts or document custodians, and the breadth of the search, ITA may need to  
3 formulate more than one search query and scan the stored data multiple times.  
4 When the search completes, Google Vault provides preliminary information  
5 regarding the email data gathered by the search. In order to access the actual  
6 emails, however, the entire store of data must first be exported from the cloud-  
7 servers to a different “download” server to which ITA can connect via the internet  
8 and from which we can then download the data. Depending on the size of the data,  
9 the download process the most time-consuming part of gathering the email data.  
10 Even when ITA allocates multiple personnel to conduct search queries in order to  
11 speed up the archived email search and collection process, ITA is still limited by  
12 the speeds at which the data can be transferred from the download server to  
13 Defendant’s local data storage devices. As downloads of batches of data become  
14 available, ITA begins the process of identifying the email addresses that  
15 accompany the data against the list of individuals identified in the data request and  
16 thereafter segregates the email stores of matching individuals. ITA would also  
17 identify and screen emails of City Attorneys begin the process of identifying and  
18 screening-out the emails of city attorneys and may need to conduct subsequent  
19 queries to screen out attorneys for purposes of compiling a list of excluded emails  
20 for a privilege log.

21 In addition, Defendant would need to determine whether a City department  
22 utilizes systems-based network servers that may include network folders used to  
23 store or maintain documents within a particular division or department section. In  
24 order to retrieve systems-based server folders for review, Defendant would require  
25 a technology professional who has administrator privileges to make a copy of the  
26 drive(s), which can range in size by terabytes of data. In order to search certain  
27 folders on system-based network drives, a technology professional who has  
28

1 administrator privileges, would use the Microsoft Windows File Explorer search  
2 function, the limited search function available by default on Windows. The limited  
3 search capabilities of the Windows File Explorer search tool may not be able to  
4 accommodate full searches within documents or Boolean searches. The resulting  
5 hits might include systems files, applications, downloads, or media which may or  
6 may not be viewable. After Defendant has conducted searches for electronically  
7 stored information, Defendant would require the use of an e-discovery software  
8 and platform for Defendant's counsel to review, search, and tag documents and  
9 electronically stored information for responsiveness or privilege.

10 Defendant objects that the Request seeks documents that are not reasonably  
11 accessible based on the undue burden and costs associated with searching for and  
12 producing documents and electronically stored information responsive to this  
13 Request for the reasons described above. Defendant also objects that discovery  
14 regarding the training of particular individuals involved in Plaintiff El-Bey's  
15 specific incidents can be obtained through other means that are less burdensome,  
16 less costly, and more convenient. Without waiving any, and based on these  
17 objections, Defendant responds that it conducted a search for accessible documents  
18 in response to this Request and will produce non-privileged LAMC 56.11  
19 documents relating to training materials in the form maintained in the Defendant's  
20 ordinary course.

21 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

22 Defendant incorporates the General Objections as though fully set forth here.  
23 Defendant objects that the Request is overbroad and burdensome in seeking all  
24 documents regarding trainings, including all email communications, calendar  
25 invites, and notes taken by participants or presenters, all sign in sheets, and flyers  
26 relating to training dating back to April 2016, three years before Plaintiffs' specific  
27 incidents occurred as alleged in the SAC. Defendant objects that the Request seeks  
28

documents that are not relevant to Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents occurring on or around March 21, 2019 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant also objects to the Request to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case



1 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
2 Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing all documents regarding trainings, including all email communications,  
6 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
7 flyers relating to training dating back to April 2016 outweighs the benefit of such  
8 information for Plaintiffs' claims, and Defendant's costs or expense in conducting  
9 the search and producing documents greatly exceeds the amount in controversy for  
10 Plaintiffs' alleged damages.

11 Specifically, in order to search for and obtain documents responsive to the  
12 Request, Defendant would have to first search for all trainings and determine when  
13 such trainings occurred over a four-year period. Defendant would then have to  
14 investigate the identity of the instructor for each training and whether such training  
15 included a sign-in sheet, a list of participants, the identify of participants and  
16 instructor(s) for each training to conduct follow up searches regarding available  
17 notes and materials, and conduct searches for calendar invites and promotional  
18 emails or flyers for each training.

19 Defendant uses an email system known as CityMail that is based on an  
20 implementation of Google Apps Premier Edition and is used by nearly every City  
21 entity, including 40 different departments. Defendant's CityMail system uses the  
22 Google Vault system for archiving emails. Google Vault is a cloud-based data  
23 storage system; rather than being stored on locally managed servers, the archived  
24 email data is stored on remote servers that are managed by Google, Inc. and are  
25 only accessible to Defendant's office via the internet. In order to search the email  
26 archives, Defendant's Information Technology Agency ("ITA") must formulate a  
27 search query utilizing the search terms and restrictions provided by the requester.  
28

1 Depending on the number and complexity of search terms, the number of email  
2 accounts or document custodians, and the breadth of the search, ITA may need to  
3 formulate more than one search query and scan the stored data multiple times.  
4 When the search completes, Google Vault provides preliminary information  
5 regarding the email data gathered by the search. In order to access the actual  
6 emails, however, the entire store of data must first be exported from the cloud-  
7 servers to a different “download” server to which ITA can connect via the internet  
8 and from which we can then download the data. Depending on the size of the data,  
9 the download process the most time-consuming part of gathering the email data.  
10 Even when ITA allocates multiple personnel to conduct search queries in order to  
11 speed up the archived email search and collection process, ITA is still limited by  
12 the speeds at which the data can be transferred from the download server to  
13 Defendant’s local data storage devices. As downloads of batches of data become  
14 available, ITA begins the process of identifying the email addresses that  
15 accompany the data against the list of individuals identified in the data request and  
16 thereafter segregates the email stores of matching individuals. ITA would also  
17 identify and screen emails of City Attorneys begin the process of identifying and  
18 screening-out the emails of city attorneys and may need to conduct subsequent  
19 queries to screen out attorneys for purposes of compiling a list of excluded emails  
20 for a privilege log.

21 In addition, Defendant would need to determine whether a City department  
22 utilizes systems-based network servers that may include network folders used to  
23 store or maintain documents within a particular division or department section. In  
24 order to retrieve systems-based server folders for review, Defendant would require  
25 a technology professional who has administrator privileges to make a copy of the  
26 drive(s), which can range in size by terabytes of data. In order to search certain  
27 folders on system-based network drives, a technology professional who has  
28

1 administrator privileges, would use the Microsoft Windows File Explorer search  
2 function, the limited search function available by default on Windows. The limited  
3 search capabilities of the Windows File Explorer search tool may not be able to  
4 accommodate full searches within documents or Boolean searches. The resulting  
5 hits might include systems files, applications, downloads, or media which may or  
6 may not be viewable. After Defendant has conducted searches for electronically  
7 stored information, Defendant would require the use of an e-discovery software  
8 and platform for Defendant's counsel to review, search, and tag documents and  
9 electronically stored information for responsiveness or privilege.

10 Defendant objects that the Request seeks documents that are not reasonably  
11 accessible based on the undue burden and costs associated with searching for and  
12 producing documents and electronically stored information responsive to this  
13 Request for the reasons described above. Defendant also objects that discovery  
14 regarding the training of particular individuals involved in Plaintiffs' specific  
15 incidents can be obtained through other means that are less burdensome, less  
16 costly, and more convenient. Without waiving any, and based on these objections,  
17 Defendant produced training documents relating to LAMC 56.11 and will produce  
18 additional training documents on a rolling basis.

19 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

20 **NO. 16:**

21 Plaintiffs seek the production of training materials related to enforcement of  
22 56.11. The City objects on the basis of relevance, proportionality, and privilege.  
23 While maintaining its objections, Defendant has actually produced a patchwork of  
24 presentation agendas, sign-in sheets and PowerPoint slides going back to 2012. It  
25 has not (with some exceptions), provided presenter or participant notes, calendar  
26 invitations and emails discussing the trainings. Defendant has also refused to  
27 provide written responses that comply with Rule 34. As such, Plaintiffs have no  
28

1 way of knowing whether and to what extent the City is withholding responsive  
2 documents or even if it still has documents it intends to produce on a “rolling  
3 basis.”

4 **a. The Documents are Relevant to Plaintiffs’ Claims**

5 Although Defendant has produced some responsive documents, it has  
6 steadfastly maintained its objection on the basis of relevance. There is no basis for  
7 this objection: documents related to trainings about the enforcement of LAMC  
8 56.11 are unquestionably relevant because they pertain to one of the most central  
9 issues in this case, namely the way in which various City agencies enforce LAMC  
10 56.11. As discussed in detail above, Plaintiffs seek to show the City had a  
11 longstanding and persistent practice of depriving homeless individuals of their  
12 constitutional rights, not only through official policies like the now-enjoined  
13 “bulky item provision,” but also through widespread customs and practices.  
14 Documents that show how employees were trained to enforce LAMC 56.11 may  
15 identify specific otherwise unwritten customs and practices that are not articulated  
16 in, for example, the ordinance or even the Standard Operating Protocols  
17 themselves. This includes, for example, what constitutes an “inoperable” bicycle  
18 or how ECIs are trained to determine if any item is “bulky.”

19 Training documents are also of course relevant to establishing the City’s  
20 liability under *Monell* based on its failure to train its ECIs,<sup>14</sup> and Defendant’s  
21 objection to the contrary is nonsensical.<sup>15</sup> “If a concededly valid policy is  
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23 <sup>14</sup> Although Defendant does not raise it here, in subsequent discussions about  
24 Plaintiffs’ interrogatories related to trainings, the City objected that Plaintiffs have  
25 not sufficiently pled *Monell* liability based on a “failure to train” theory. To the  
26 extent Defendant is tempted to also raise it here, it has no merit because “discovery  
27 is not limited to the issues raised by the pleadings” or “to the merits of the  
28 case.” *U.S. ex rel. Carter*, 305 F.R.D. at 236 (quoting *Henderson v. Holiday CVS, L.L.C.*,  
269 F.R.D. 682, 685 (S.D. Fla.2010) and relying on *Oppenheimer Fund, Inc.*, 437 U.S. at 352).

<sup>15</sup> Defendant raises the same objection to relevance based on *Monell* liability here as it does in response to RFP 2. There is also no basis for the objection here,

1 unconstitutionally applied by a municipal employee, the city is liable if the  
2 employee has not been adequately trained and the constitutional wrong has been  
3 caused by that failure to train.” *City of Canton, Ohio v. Harris*, 489 U.S. 378,  
4 387 (1989). Plaintiffs therefore seek LAMC 56.11-related training documents used  
5 by the City of Los Angeles, in order to determine whether the trainings given to the  
6 City employees across multiples agencies was adequate to prevent the  
7 constitutional harms alleged in this case. Training materials in use prior to the  
8 Specific Incidents are relevant to show how the trainings have changed over the  
9 course of implementing LAMC 56.11. This is relevant to the question of whether  
10 and to what extent the City’s training and policies, customs and practices regarding  
11 the enforcement of LAMC 56.11 changed in response to allegations that ECIs were  
12 violating individuals’ constitutional rights. *See Connick v. Thompson*, 563 U.S. 51,  
13 63 (2011). And of course, many of the ECIs, including the Chief ECI, Howard  
14 Wong, have been in the position of enforcing LAMC 56.11 since long before April  
15 2016, and therefore, trainings they received would be relevant to their current  
16 conduct.

17 And finally, training documents may contain impeachment evidence. *Estate*  
18 *of Ernesto Flores*, 2017 WL 3297507, at \*6; *Paulsen*, 168 F.R.D. at 289.

19 **b. Defendant’s Written Response Does Not Comply With Rule 34**

20 As with the Policy RFPs (11-15), Defendant’s written response here also  
21 does not comply in any way with Rule 34(b)(2). In its initial response, Defendant  
22 stated that it “conducted a search for accessible documents in response to this  
23 Request and will produce non-privileged LAMC 56.11 documents related to  
24 training materials in the form maintained in the Defendant’s ordinary course.” It

25 and in fact, the objection makes even less sense, since in the failure to train  
26 context, it is actually possible, although difficult, to assert a *Monell* claim based  
27 solely on evidence of a “single incident.” *See e.g., Connick*, 563 U.S. at 63  
28 (explaining that hypothetically there could be a finding of liability based on  
evidence of a “single incident” but noting that this exception is “rare” and  
“narrow”).

1 then handed over a few documents responsive to this request.<sup>16</sup> In its amended  
2 response in October, Defendant continues to assert a number of objections but then  
3 agrees to “produce additional training documents on a rolling basis.”

4 Months later, the City produced a very large number of additional  
5 documents directly responsive to this request and highly relevant to the case  
6 (including, for example, training documents stating the City’s enforcement posture  
7 related to LAMC 56.11). The City provided no explanation for its failure to  
8 produce these documents in its earlier production and still refused to state whether  
9 it is producing *all* documents in its possession, custody, and control. It has also  
10 steadfastly maintained its objections to this request without identifying whether  
11 and to what extent it is withholding documents responsive to the request. For  
12 example, even though Defendant objects to producing documents “three years  
13 before the alleged individual incidents occurred,” the City still produced  
14 documents as far back as 2005. As a result, Plaintiffs have no way of verifying that  
15 Defendant is producing all documents responsive to its requests, or simply cherry-  
16 picking documents that support its claims, to the exclusion of other documents  
17 responsive to this request.

18 And finally, although Defendant has had Plaintiffs’ requests for documents  
19 since October 2019, it still refuses to state when it will complete its production of  
20 documents responsive to this request. *See Maiorano*, 2017 WL 4792380, at \*2.  
21 None of this is allowed under Rule 34.

22 Because the written responses fail to provide the requisite information, the  
23 Court should treat this as a “failure to disclose, answer, or respond.” *See Fed. R.*  
24 *Civ. Pro.* 34; 37 (“[f]or purposes of this subdivision (a), an evasive or incomplete  
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26 <sup>16</sup> Despite the City’s representation that it would produce the documents as  
27 kept in the ordinary course, the City produced the documents as a single combined  
28 PDF, with no metadata. After months of refusing to produce the documents in the  
form in which the documents were kept, the City finally produced some, but not  
all, of the documents as individual PowerPoint presentations.



1 disclosure, answer, or response must be treated as a failure to disclose, answer, or  
2 respond”); *Louen*, 236 F.R.D. 502, at 505; *Advanced Visual Image Design, LLC.*,  
3 2015 WL 4934178, at \*3; *see also Duran*, 258 F.R.D. at 379-80).

4 **c. Plaintiffs’ Request is Not Overbroad**

5 Plaintiffs seek documents related to any training the City has conducted  
6 related to LAMC 56.11 since April 2016, when the City amended the ordinance  
7 and began enforcing it. Defendant objects to this request as overbroad because the  
8 documents date back two years and eight months before the Specific Incidents  
9 occurred. There is no merit to this objection. As described above, reviewing  
10 training materials prior to the individual incidents is appropriate to assess, amongst  
11 other issues: 1) the substance of the trainings and the customs, policies and  
12 practices articulated in the trainings; 2) how the training materials may have  
13 changed over the course of enforcing 56.11 and why they have or have not  
14 changed; and 3) who has attended these trainings and thus may have subsequently  
15 trained others. Importantly, this is just two years and eight months prior to the first  
16 Specific Incident alleged in the complaint. In fact, given the history of allegations  
17 related to the seizure and destruction of unhoused people’s belongings which  
18 preceded this case, two years and eight months is a more than reasonable time  
19 period to review training documents leading up to the first individual incident. As  
20 with the rest of Plaintiffs’ requests, this request is “limited to a discrete, time-  
21 limited topic” that is germane to critical issues in this case. *Fulfillium*, 2018 WL  
22 6118433, at \*5. Five years of training documents is not overbroad for a case in  
23 which Plaintiffs are required to establish *Monell* liability. *See, e.g., Medora*, 2007  
24 WL 9810901, at \*8.

25 **d. Plaintiffs’ Narrow Request is Proportional to the Needs of the**  
26 **Case**

27 Because Defendant disagrees that these documents are relevant, let alone  
28 important to the case, Defendant likewise argues that any burden, even the routine

1 burden of discovery is not proportionate to the needs of the case. But this  
2 objection is without merit. As discussed in detail above, the issues at stake in this  
3 litigation are of constitutional significance, the amount in controversy is largely  
4 irrelevant given that Plaintiffs primarily seek prospective relief to put an end to the  
5 City's unconstitutional practices, the City of Los Angeles has far more resources  
6 than the seven unhoused individuals whose belongings were seized and the  
7 volunteer organization whose resources go to replacing those belongings; and  
8 Plaintiffs have no access to the City's internal policies and procedures, while the  
9 City has complete access to that information. *See supra*, Plaintiffs' Argument re:  
10 Request No. 2. The other factors also weigh heavily in Plaintiffs' favor. *See Fed.*  
11 *R. Civ. P. 26(b)(1)*.

12 **i. Importance of the discovery in resolving the issues**

13 As with policy documents, training documents go directly to a central issue  
14 in this litigation, namely the City's policies and practices related to the  
15 enforcement of LAMC 56.11. Evidence about how the individuals who enforce  
16 LAMC 56.11 are trained may answer questions about the existence of  
17 unconstitutional customs, policies, and practices and the question of whether those  
18 customs, policies, and practices are widespread and longstanding. This issue is key  
19 to both *Monell* liability and to the individual plaintiffs' and KFA's claims for  
20 prospective relief.

21 Moreover, training documents are critical to the issue of *Monell* liability  
22 under a failure to train theory of liability, which provides that Plaintiffs can show  
23 the City acted with deliberate indifference towards the rights of its citizens, even  
24 where written policies appear to be facially constitutional. *Harris*, 489 U.S. at 392.  
25 Relevant factors include the adequacy of the training program(s), whether an  
26 inadequate training program represents a city policy, and whether that deficiency is  
27 related to Plaintiffs' injuries. *Id.* at 389-390. To that end, training documents are  
28

critical to these issues,<sup>17</sup> and the documents sought (attendance lists, slides and training materials, and presenter notes) are necessary to fill in the types of details particularly relevant to this case. Absent recordings of the trainings, presenter and participant notes often provide clarification and instruction about unwritten policies and customs that do not appear on the slides themselves. Similarly, calendar invitations can provide details about why specific trainings are being conducted.

**ii. Whether the burden or expense of the proposed discovery outweighs its likely benefit**

Defendant argues that it would be too burdensome to produce documents responsive to this request. As an initial matter, the fact that discovery may be burdensome is not sufficient grounds for objection when the information requested is essential to the case. *Gutierrez*, 2019 WL 8060079, at \*9 (benefit outweighs burden where the information sought regarding Defendant's K-9 policies and procedures is essential to Plaintiff's *Monell* claims and Defendant provides no evidence of burden or expense). It is especially insufficient where, as here, Plaintiffs' request is narrowly tailored to a discrete topic with significant temporal limitations. *See Fulfillium*, 2018 WL 6118433, at \*5.

In fact, the burden articulated by the City is nothing more than the burden associated with responding to any discovery at all. The City spends nearly two pages laying out what are, in essence nothing more than the routine obligation of a party to identify responsive discovery: 1) identifying custodians; 2) formulating searches; 3) running those searches; 4) exporting data; and 5) screening for

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<sup>17</sup> In subsequent discussions about Plaintiffs' interrogatories related to trainings, the City raises for the first time the objection that Plaintiffs have not pled "failure to train." While Defendant did not make that objection related to these RFPs, to the extent they raise it here, it has no merit. Plaintiffs have sufficiently pled *Monell* liability and more to the point, "discovery is not limited to the issues raised by the pleadings" or "to the merits of the case." *U.S. ex rel. Carter*, 305 F.R.D. at 236 (quoting *Henderson*, 269 F.R.D. at 685 and relying on *Oppenheimer Fund, Inc.*, 437 U.S. at 352).

1 privilege. The burden articulated by the City applies only to ESI, not to paper  
2 documents the City may have that are responsive to these requests, but even as to  
3 ESI, including emails, the steps laid out by the City are “common in litigation,”  
4 *Sung Gon Kang*, 2020 WL 1689708, at \*5.

5 “[L]arge corporations and institutions are expected to have the means for  
6 locating documents requested in legal matters.” *Id.* (quoting Herring, 2011 WL  
7 2433672, at \*9). Defendant is the City of Los Angeles, one of the largest cities in  
8 the world, which prides itself on having “world-class IT infrastructure and  
9 applications that provide our citizens, businesses, and visitors with the digital  
10 services they expect from a leading global city.”<sup>18</sup> The City has a substantial  
11 Information Technology Agency and is represented by the City Attorney’s office  
12 in tens if not hundreds of pending cases. In fact, the City has been in active  
13 litigation about these specific issues since 2011. It is untenable to suggest that it is  
14 burdensome for Defendant to, for example, “determine whether a City department  
15 utilizes systems-based network servers.” This information should be readily  
16 available, as it would be implicated in every single discovery request ever made to  
17 the City (to say nothing of the City’s obligation to produce documents responsive  
18 to the CPRA). The same is true for the steps necessary to search for documents  
19 responsive to such a discrete and time-limited request.

20 “A recipient that is a large or complex organization or that has received a  
21 lengthy or complex document request should be able to demonstrate a procedure  
22 for systemic compliance with the document request.” *In re Citimortgage*, 2012  
23 WL 10450139, at \*4 (quoting *Meeks v. Parsons*, No. 1:03-cv-6700-LJO-GSA,  
24 2009 WL 3003718, at 4 (E.D. Cal. Sept 18, 2009) (describing the steps that would  
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26  
27 <sup>18</sup> Information Technology Agency, City of Los Angeles, “About ITA,”  
28 available at [ita.lacity.org/about-ita](http://ita.lacity.org/about-ita).

1 constitute a “reasonable inquiry” in response to routine discovery). Here, the City  
2 refuses to conduct even this “reasonable inquiry” to identify responsive documents.

3 Finally, the City objects to the production of emails related to this request  
4 (and all requests) on the ground that it is too burdensome. There is simply no merit  
5 to this argument. There is nothing in Rule 34 that distinguishes responsive emails  
6 from any other type of data or that “requires a requesting party to identify  
7 custodians or search terms.” *NuVasive, Inc. v. Alphatec Holdings, Inc.*, 2019 WL  
8 4934477, at \*2 (S.D. Cal. 2019). Instead, “Plaintiff must request information,  
9 regardless of how or where it is maintained by Defendants, which Defendants must  
10 address as required by Rule 34. That is discovery: a party requests information and  
11 the burden is on the producing party to locate and produce it or object legitimately  
12 to production.” *Id.* The City routinely produces emails responsive to CPRAs. *See*  
13 Riskin Decl., ¶¶ 8-9. And the City has already produced some emails in response  
14 to RFPs focusing on the City’s violation of the Preliminary Injunction. Myers  
15 Decl., ¶ 42.

16 Plaintiffs attempted to address the City’s burden argument by providing  
17 custodians and search terms, but while the City has agreed to search for emails,  
18 Plaintiffs provided an initial list in November, and the City has failed to provide  
19 even an estimated time when Plaintiffs will receive the documents, let alone the  
20 vast majority of the documents themselves. Over 100 days has passed since  
21 providing the City with that information. The City’s latest email, indicating the  
22 City’s intention to meet and confer about the proportionality of the request at some  
23 date in the future underscores the need for court intervention. Plaintiffs have  
24 repeatedly offered to meet and confer about the production of emails, but  
25 Defendant still refuses to concede that Plaintiffs are entitled to the production of  
26 emails, based on its willful misrepresentation about the scope of this litigation and  
27 its untenable position that the requested documents are not relevant. This is  
28

1 indefensible. The City is taking an unreasonable amount of time to produce  
2 responsive documents, which is causing significant delay.

3 Plaintiffs' request for documents related to trainings are relevant and  
4 proportional to the needs of the case, and there is no support for the City's contrary  
5 position. The City cannot "show grounds for failing to provide the requested  
6 discovery," which the City must do to prevail here. *In re: Citimortgage*, 2012 WL  
7 10450139, at \*4.

8 **e. The Documents are "Reasonably Accessible" under Rule**  
9 **26(b)(2)(B)**

10 Defendant objects that the documents sought are not "reasonably accessible,  
11 based on the undue burden and costs associated with searching for and producing  
12 documents responsive to this Request. . . ." To the extent the City intends this  
13 objection to refer to the special limitation for ESI under Rule 26(b)(2)(B), the  
14 objection misses the mark.

15 Under Rule 26(b)(2)(B), "A party need not provide discovery of  
16 electronically stored information from sources that the party identifies as not  
17 reasonably accessible because of undue burden or cost." Fed. Rule Civ. Pro. 26  
18 (b)(2)(B). The burden for demonstrating that ESI is stored in sources that are not  
19 "reasonably accessible" rests on the party objecting to the discovery, and then the  
20 burden shifts to the party seeking discovery to demonstrate good cause. *Id.*  
21 Defendant cannot meet the burden here. As an initial matter, Rule 26(b)(2)(B)  
22 applies only to ESI, not other documents, and these documents exist in both paper  
23 and electronic form. But even with ESI, the City's own explanation of the process  
24 for obtaining responsive documents prove why the documents are in fact "readily  
25 accessible" under Rule 26(b)(2)(B).

26 In *U.S. ex rel. Carter*, the Court articulated the well-established distinction  
27 between "readily accessible" documents which are subject to the standard Rule 34  
28 analysis and "inaccessible" ESI, which is subject to the Rule 26 limitation. In



1 general, inaccessible ESI “is not readily useable and must be restored to an  
2 accessible state before the data is usable,” such as archival backup tapes or  
3 backups of data stored for emergency restoration. 305 F.R.D. at 238. *But see U.S.*  
4 *ex. rel. Guardiola*, 2015 WL 5056726, at \*3-4 (even some backup documents may  
5 be deemed readily accessible if the backups can be easily restored and finding the  
6 \$136,000 cost of restoration reasonable); *Sung Gon Kang*, 2020 WL 1689708, at  
7 \*5 (even sources of documents that are encrypted and not searchable were still  
8 “readily accessible” under Rule 26(b)(2)(B)). On the other hand, “[a]ctive ESI  
9 sources—e.g., active computer files or e-mail records—proceeds in the same  
10 manner as would discovery from paper sources.... No special request must be  
11 made, and no special standards apply.” *Tyler*, 2015 WL 1955049, at \*1 (citation  
12 omitted).

13 Defendants have not identified, as is its burden, what sources of data are not  
14 “readily accessible” so the parties can address the burden. *Id.* at 2. But the City  
15 does not do so. In fact, the City’s objection spelling out the process for obtaining  
16 the documents makes clear that the relevant records are stored in active servers  
17 (and in paper copy). No restoration of any kind is necessary. The only step the  
18 City identifies as burdensome is downloading the data from the cloud, but  
19 “[m]oving active and easily accessible ESI from one storage medium to another  
20 does not, by itself, render it inaccessible.” *Al Otra Lado v. Nielson*, 328 F.R.D.  
21 408, 421 (S.D. Cal. 2018). Any burden the City identifies is not in accessing the  
22 documents, but instead in compiling them for production. That does not make the  
23 documents “inaccessible” under Rule 26(b)(2)(B). *See Sung Gon Kang*, 2020 WL  
24 1689708, at \*5 (finding that requested documents were reasonably accessible and  
25 not burdensome where “accessing the [documents] and their content is easily  
26 achievable but compiling the [documents] may prove somewhat time consuming”).  
27 And it is no basis for withholding the documents. *See Carter*, 305 F.R.D. at 238  
28

1 (“It cannot be argued that a party should ever be relieved of its obligation to  
2 produce accessible data merely because it may take time and effort to find what is  
3 necessary.”).

4 **f. There is No Merit to the City’s Other Objections**

5 **i. Claims of privilege**

6 The City incorporates a general objection into the request “insofar as said  
7 Request seeks the disclosure of communications or information protected by the  
8 attorney-client privilege, the attorney work product doctrine, the official  
9 information privilege or any other privilege.” *See* page 2 of Amended Written  
10 Responses. As discussed above, despite numerous requests Defendants have not  
11 produced a privilege log or any other details to substantiate its boilerplate  
12 objection. Defendant has therefore waived this objection. *Burlington Northern &*  
13 *Santa Fe Ry. Co.*, 408 F.3d. at 1149. *See also DeSilva*, 2020 WL 5947827, at \*2.

14 **ii. Other boilerplate general objections**

15 In addition to the specific objections to relevance and proportionality, the  
16 City provides three pages of general boilerplate objections. The City simply  
17 incorporates these objections by reference into each of the requests for production,  
18 without providing any basis for the specific objection or even an assessment of  
19 whether the objection specifically applies to the request. To the extent any of them  
20 even applied to this RFP, Defendant therefore waived these objections. *See,*  
21 *e.g., Bosley*, 2016 WL 1704159, at \*5, n. 3.

22 **g. Plaintiffs’ Request for Relief**

23 Plaintiffs are entitled to an order compelling the City to produce  
24 all documents responsive to RFP No. 16 within 21 days or, if the City asserts it has  
25 produced all documents responsive to the request, compelling Defendant to  
26 provide a complete, explicit response as to the search conducted to identify and  
27  
28

1 produce responsive documents and attesting to the finality of their production, as  
2 required by Rule 34.

3 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 16:**

5 RFP 16 seeks: “All DOCUMENTS related to trainings conducted by or for  
6 CITY employees, agents, or contractors regarding LAMC 56.11, including but not  
7 limited to the seizure, destruction, or storage of property pursuant to LAMC 56.11  
8 [2016 to the present].” (Emphasis added). “Requested materials include but are  
9 not limited to any flyers, email communications promoting, announcing or  
10 otherwise describing the trainings; calendar invitations for any trainings;  
11 attendance or sign-in sheets for any and all trainings; training materials, including  
12 but not limited to presentations, handouts, and manuals; presenter’s notes; and  
13 notes taken by participants.”

14 Plaintiffs argue that the documents are relevant both for establishing *Monell*  
15 liability as well as establishing the City’s practices for purposes of prospective  
16 relief under the Declaratory Judgments Act. Plaintiffs’ arguments fail.

17 First, *Monell* cannot serve as the relevance theory because the facts related  
18 to *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell*  
19 liability. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist.  
20 LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“additional discovery related to  
21 strip searches is unnecessary as it is undisputed that the search was conducted  
22 pursuant to the City’s written policy, which had been in effect since 1999”); *Ursea*  
23 *Decl.* ¶¶2-4; Ex. 1, 2.

24 Second, declaratory relief cannot serve as a relevance theory because only  
25 current policies and practices are relevant for prospective relief—but the current  
26 practices are not in dispute and in any event, historical documents would not be  
27 probative of current policies and practices. *See Bayer v. Nieman Marcus Group*,

1 *Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to  
2 relevance based on *Monell* and declaratory relief are equally applicable here,  
3 Defendant incorporates by reference its argument as to RFP 2.

4 Plaintiffs also argue that “documents related to trainings about the  
5 enforcement of LAMC 56.11 are unquestionably relevant because they pertain to  
6 one of the most central issues in this case, namely the way in which various City  
7 agencies enforce LAMC 56.11.” But the central issue in the case is not how the  
8 City enforces LAMC 56.11 in the abstract, or even how it trains its employees to  
9 enforce LAMC 56.11; it is whether Plaintiffs’ belongings were seized in violation  
10 of the Fourth Amendment and/or due process. Plaintiffs do not explain how any  
11 training documents, much less the specific documents they seek to compel—  
12 presenter or participant notes, calendar invitations and emails discussing the  
13 trainings, all dating from 2016 to present —would have any bearing on whether  
14 their rights were violated during the alleged cleanups.

15 Plaintiffs also argue that “[t]raining materials in use prior to the Specific  
16 Incidents are relevant to show how the trainings have changed over the course of  
17 implementing LAMC 56.11...in response to allegations that ECIs were violating  
18 individuals’ constitutional rights.” Even if the documents showed that the City  
19 changed its trainings after its practices were challenged, Plaintiffs do not explain  
20 how that would have any bearing on whether their rights were violated during the  
21 cleanup operations they allege.

22 Plaintiffs also contend that “many of the ECIs, including the Chief ECI,  
23 Howard Wong, have been in the position of enforcing LAMC 56.11 since long  
24 before April 2016, and therefore, trainings they received would be relevant to their  
25 current conduct.” Again, the fact that ECIs received training years before  
26 Plaintiffs’ belongings were allegedly seized has no obvious relevance to the claims  
27 or defenses in this case. Either the City violated Plaintiffs Fourth Amendment  
28

1 and/or due process rights when it enforced LAMC 56.11 and seized Plaintiffs’  
2 property during the alleged cleanups, or the seizures were reasonable and Plaintiffs  
3 were provided sufficient due process. What training Howard Wong or any other  
4 ECI may have received three years before the cleanups, or at any time, is  
5 irrelevant. Moreover, Plaintiffs do not explain how any training documents, much  
6 less the specific documents they seek to compel—presenter or participant notes,  
7 calendar invitations and emails discussing the trainings, all dating from 2016 to  
8 present—would have any bearing on whether their rights were violated during the  
9 alleged cleanups.

10 Finally, Plaintiffs contend that training documents may contain  
11 impeachment evidence. *Estate of Ernesto Flores*, 2017 WL 3297507, at \*6;  
12 *Paulsen*, 168 F.R.D. at 289. This conclusory statement, devoid of any explanation  
13 or support, does not satisfy Plaintiffs’ burden to prove the relevance of all training  
14 materials, as specifically, presenter or participant notes, calendar invitations and  
15 emails discussing the trainings, from 2016 to present.

16 The request for all such documents is also not proportional to the needs of  
17 the case. To be clear, Plaintiffs are **not** contending that the City failed to produce  
18 documents responsive this request. Plaintiffs state that “Defendant has actually  
19 produced a patchwork of presentation agendas, sign-in sheets and PowerPoint  
20 slides going back to 2012.” In fact, Plaintiffs concede that “the City produced a  
21 very large number of additional documents directly responsive to this request and  
22 highly relevant to the case (including, for example, training documents stating the  
23 City’s enforcement posture related to LAMC 56.11).” In addition, in response to  
24 Plaintiffs’ interrogatories regarding training, the City identified by title, bates  
25 number, and department over 65 training-related documents the City has produced  
26 responsive to Plaintiffs’ RFPs. *Lebron Decl.* ¶14, Ex. 39 (City’s Amended  
27  
28

1 Objection and Responses to Plaintiff Zamora’s Special Interrogatories Set One) at  
2 pp. 7-17.

3 In addition to conducting a reasonable investigation to find responsive  
4 documents, the City agreed to collect email communications from LAPD, LASAN,  
5 UHRC, and the City Attorney’s Office—using the 30 custodians and broad search  
6 terms proposed by Plaintiffs. Ursea Decl. ¶¶19, 23, 32, 34, 37, 43. The City  
7 collected over 500,000 emails using the Plaintiffs’ requested custodians and search  
8 terms. The City’s e-discovery vendor recently loaded a data set of 475,000 emails.  
9 While the parties had initially agreed to meet and confer regarding this data set,  
10 Plaintiffs served this stipulation while the City was in the process of producing  
11 documents from the first 70,000 emails. Ursea Decl. ¶¶37-42. Furthermore, the  
12 City has repeatedly told Plaintiffs that it has not withheld non-privileged  
13 responsive documents that were uncovered during its investigation, even if the  
14 documents pre-dated the Plaintiffs’ incidents. Ursea Decl. ¶¶8, 21(d).

15 Despite these compromises, Plaintiffs seek to compel the City to also locate,  
16 review and produce **all** documents including “presenter or participant notes,  
17 calendar invitations and emails discussing the trainings,” and then unequivocally  
18 state that it has produced “all” relevant documents responsive to this request. This  
19 imposes an enormous burden on the City as there is not a centralized database or  
20 repository containing all LAMC 56.11 or encampment cleanup training materials  
21 or records. Wong Decl. ¶7. The City has produced training materials it has  
22 located and will produce any other training materials it locates during its  
23 investigation and review of agreed-upon emails. But this discovery is unnecessary  
24 to resolve the issues in this case and the burden imposed on the City outweighs the  
25 benefit of finding and producing **all** training documents from 2016 to the present,  
26 including presenter notes or calendar invitations, might contain potentially relevant  
27 information.  
28



1 Because the law and analysis as to relevance and proportionality are equally  
2 applicable here, Defendant incorporates by reference its argument as to RFPs 2 and  
3 11. As to Plaintiffs' argument that the City has "waived" privilege, the City  
4 incorporates by reference its argument on that issue with respect to RFP 1.

5  
6 **REQUEST FOR PRODUCTION NO. 17:**

7 All DOCUMENTS related to trainings conducted by or for CITY  
8 employees, agents, or contractors regarding ENCAMPMENT CLEANUPS,  
9 including but not limited to the seizure, destruction, or storage of property.  
10 Requested materials include but are not limited to any flyers, email  
11 communications promoting, announcing or otherwise describing the trainings;  
12 calendar invitations for the trainings; attendance or sign-in sheets for any and all  
13 trainings; training materials, including but not limited to presentations, handouts,  
14 and manuals; presenter's notes; and notes taken by participants.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

16 Defendant incorporates the General Objections as though fully set forth here.  
17 Defendant objects that the Request is overbroad and burdensome in seeking all  
18 documents regarding trainings, including all email communications, calendar  
19 invites, and notes taken by participants or presenters, all sign in sheets, and flyers  
20 relating to training dating back to April 2016, three years before Plaintiff El-Bey's  
21 specific incidents occurred as alleged in the SAC. Defendant objects that the  
22 Request seeks documents that are not relevant to Plaintiff El-Bey's specific claims  
23 alleged in the SAC relating to incidents occurring on or around January 10, 2019 at  
24 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western.  
25 Defendant further objects that the Request seeks documents that are not relevant to  
26 any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff  
27 KFA's claims seeking any declaration that the City unconstitutionally applied  
28

1 LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at  
2 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a  
3 ruling that the City's policies and practices are unconstitutional and not that each  
4 past application of those policies and practices to its members was  
5 unconstitutional."). Defendant also objects that the proposed discovery is not  
6 relevant to establishing *Monell* liability for the claims alleged in the SAC.  
7 Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single  
8 incident ... to hold the City liable under *Monell*"). Defendant also objects to the  
9 Request to the extent the Request seeks information protected from disclosure by  
10 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
11 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
12 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
13 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

14 Defendant further objects that the Request is burdensome and not  
15 proportional to the needs of the case, insofar as the burden of searching for and  
16 producing all documents regarding trainings, including all email communications,  
17 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
18 flyers relating to training dating back to April 2016 outweighs the benefit of such  
19 information for Plaintiff El Bey's claims, and Defendant's costs or expense in  
20 conducting the search and producing documents greatly exceeds the amount in  
21 controversy for Plaintiff's alleged damages.

22 Specifically, in order to search for and obtain documents responsive to the  
23 Request, Defendant would have to first search for all trainings and determine when  
24 such trainings occurred over a four-year period. Defendant would then have to  
25 investigate the identity of the instructor for each training and whether such training  
26 included a sign-in sheet, a list of participants, the identify of participants and  
27 instructor(s) for each training to conduct follow up searches regarding available  
28

1 notes and materials, and conduct searches for calendar invites and promotional  
2 emails or flyers for each training.

3 Defendant uses an email system known as CityMail that is based on an  
4 implementation of Google Apps Premier Edition and is used by nearly every City  
5 entity, including 40 different departments. Defendant's CityMail system uses the  
6 Google Vault system for archiving emails. Google Vault is a cloud-based data  
7 storage system; rather than being stored on locally managed servers, the archived  
8 email data is stored on remote servers that are managed by Google, Inc. and are  
9 only accessible to Defendant's office via the internet. In order to search the email  
10 archives, Defendant's ITA must formulate a search query utilizing the search terms  
11 and restrictions provided by the requester. Depending on the number and  
12 complexity of search terms, the number of email accounts or document custodians,  
13 and the breadth of the search, ITA may need to formulate more than one search  
14 query and scan the stored data multiple times. When the search completes, Google  
15 Vault provides preliminary information regarding the email data gathered by the  
16 search. In order to access the actual emails, however, the entire store of data must  
17 first be exported from the cloud-servers to a different "download" server to which  
18 ITA can connect via the internet and from which we can then download the data.  
19 Depending on the size of the data, the download process the most time-consuming  
20 part of gathering the email data. Even when ITA allocates multiple personnel to  
21 conduct search queries in order to speed up the archived email search and  
22 collection process, ITA is still limited by the speeds at which the data can be  
23 transferred from the download server to Defendant's local data storage devices. As  
24 downloads of batches of data become available, ITA begins the process of  
25 identifying the email addresses that accompany the data against the list of  
26 individuals identified in the data request and thereafter segregates the email stores  
27 of matching individuals. ITA would also identify and screen emails of City  
28

1 Attorneys begin the process of identifying and screening-out the emails of city  
2 attorneys and may need to conduct subsequent queries to screen out attorneys for  
3 purposes of compiling a list of excluded emails for a privilege log.

4 In addition, Defendant would need to determine whether a City department  
5 utilizes systems-based network servers that may include network folders used to  
6 store or maintain documents within a particular division or department section. In  
7 order to retrieve systems-based server folders for review, Defendant would require  
8 a technology professional who has administrator privileges to make a copy of the  
9 drive(s), which can range in size by terabytes of data. In order to search certain  
10 folders on system-based network drives, a technology professional who has  
11 administrator privileges, would use the Microsoft Windows File Explorer search  
12 function, the limited search function available by default on Windows. The limited  
13 search capabilities of the Windows File Explorer search tool may not be able to  
14 accommodate full searches within documents or Boolean searches. The resulting  
15 hits might include systems files, applications, downloads, or media which may or  
16 may not be viewable. After Defendant has conducted searches for electronically  
17 stored information, Defendant would require the use of an e-discovery software  
18 and platform for Defendant's counsel to review, search, and tag documents and  
19 electronically stored information for responsiveness or privilege.

20 Defendant objects that the Request seeks documents that are not reasonably  
21 accessible based on the undue burden and costs associated with searching for and  
22 producing documents and electronically stored information responsive to this  
23 Request for the reasons described above. Defendant also objects that discovery  
24 regarding the training of particular individuals involved in Plaintiff El-Bey's  
25 specific incidents can be obtained through other means that are less burdensome,  
26 less costly, and more convenient. Without waiving any, and based on these  
27 objections, Defendant responds that it conducted a search for accessible documents  
28

1 in response to this Request and will produce non-privileged documents relating to  
2 encampment cleanup training materials in the form maintained in the Defendant's  
3 ordinary course.

4 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

5 Defendant incorporates the General Objections as though fully set forth here.  
6 Defendant objects that the Request is overbroad and burdensome in seeking all  
7 documents regarding trainings, including all email communications, calendar  
8 invites, and notes taken by participants or presenters, all sign in sheets, and flyers  
9 relating to training dating back to April 2016, three years before Plaintiffs' specific  
10 incidents occurred as alleged in the SAC. Defendant objects that the Request seeks  
11 documents that are not relevant to Plaintiffs' specific claims alleged in the Second  
12 Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges claims for  
13 specific incidents occurring on or around January 10, 2019 at 6th Street and  
14 Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff  
15 Garcia alleges claims for specific incidents occurring on or around January 29,  
16 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna  
17 Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and  
18 Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents  
19 occurring on or around March 21, 2019 at 6th Street and Ardmore and on or  
20 around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges  
21 claims for incidents occurring sometime in March 2019 and a month later by  
22 Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims  
23 for a specific incident on or around April 24, 2019 at Lomita and McCoy; and  
24 Plaintiff Ashley alleges claims for a specific incident occurring on or around May  
25 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking  
26 any declaration that the City unconstitutionally applied LAMC 56.11 or the City's  
27 policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets  
28

1 KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies  
2 and practices are unconstitutional and not that each past application of those  
3 policies and practices to its members was unconstitutional."). Defendant also  
4 objects that the proposed discovery is not relevant to establishing *Monell* liability  
5 for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument  
6 that "it need only raise a single incident ... to hold the City liable under *Monell*.").  
7 Defendant also objects to the Request to the extent the Request seeks information  
8 protected from disclosure by the attorney-client privilege and or attorney work  
9 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
10 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
11 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
12 Sep. 9, 2013).

13 Defendant further objects that the Request is burdensome and not  
14 proportional to the needs of the case, insofar as the burden of searching for and  
15 producing all documents regarding trainings, including all email communications,  
16 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
17 flyers relating to training dating back to April 2016 outweighs the benefit of such  
18 information for Plaintiffs' specific claims, and Defendant's costs or expense in  
19 conducting the search and producing documents greatly exceeds the amount in  
20 controversy for Plaintiff's alleged damages.

21 Specifically, in order to search for and obtain documents responsive to the  
22 Request, Defendant would have to first search for all trainings and determine when  
23 such trainings occurred over a four-year period. Defendant would then have to  
24 investigate the identity of the instructor for each training and whether such training  
25 included a sign-in sheet, a list of participants, the identify of participants and  
26 instructor(s) for each training to conduct follow up searches regarding available  
27  
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1 notes and materials, and conduct searches for calendar invites and promotional  
2 emails or flyers for each training.

3 Defendant uses an email system known as CityMail that is based on an  
4 implementation of Google Apps Premier Edition and is used by nearly every City  
5 entity, including 40 different departments. Defendant's CityMail system uses the  
6 Google Vault system for archiving emails. Google Vault is a cloud-based data  
7 storage system; rather than being stored on locally managed servers, the archived  
8 email data is stored on remote servers that are managed by Google, Inc. and are  
9 only accessible to Defendant's office via the internet. In order to search the email  
10 archives, Defendant's ITA must formulate a search query utilizing the search terms  
11 and restrictions provided by the requester. Depending on the number and  
12 complexity of search terms, the number of email accounts or document custodians,  
13 and the breadth of the search, ITA may need to formulate more than one search  
14 query and scan the stored data multiple times. When the search completes, Google  
15 Vault provides preliminary information regarding the email data gathered by the  
16 search. In order to access the actual emails, however, the entire store of data must  
17 first be exported from the cloud-servers to a different "download" server to which  
18 ITA can connect via the internet and from which we can then download the data.  
19 Depending on the size of the data, the download process the most time-consuming  
20 part of gathering the email data. Even when ITA allocates multiple personnel to  
21 conduct search queries in order to speed up the archived email search and  
22 collection process, ITA is still limited by the speeds at which the data can be  
23 transferred from the download server to Defendant's local data storage devices. As  
24 downloads of batches of data become available, ITA begins the process of  
25 identifying the email addresses that accompany the data against the list of  
26 individuals identified in the data request and thereafter segregates the email stores  
27 of matching individuals. ITA would also identify and screen emails of City  
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1 Attorneys begin the process of identifying and screening-out the emails of city  
2 attorneys and may need to conduct subsequent queries to screen out attorneys for  
3 purposes of compiling a list of excluded emails for a privilege log.

4 In addition, Defendant would need to determine whether a City department  
5 utilizes systems-based network servers that may include network folders used to  
6 store or maintain documents within a particular division or department section. In  
7 order to retrieve systems-based server folders for review, Defendant would require  
8 a technology professional who has administrator privileges to make a copy of the  
9 drive(s), which can range in size by terabytes of data. In order to search certain  
10 folders on system-based network drives, a technology professional who has  
11 administrator privileges, would use the Microsoft Windows File Explorer search  
12 function, the limited search function available by default on Windows. The limited  
13 search capabilities of the Windows File Explorer search tool may not be able to  
14 accommodate full searches within documents or Boolean searches. The resulting  
15 hits might include systems files, applications, downloads, or media which may or  
16 may not be viewable. After Defendant has conducted searches for electronically  
17 stored information, Defendant would require the use of an e-discovery software  
18 and platform for Defendant's counsel to review, search, and tag documents and  
19 electronically stored information for responsiveness or privilege.

20 Defendant objects that the Request seeks documents that are not reasonably  
21 accessible based on the undue burden and costs associated with searching for and  
22 producing documents and electronically stored information responsive to this  
23 Request for the reasons described above. Defendant also objects that discovery  
24 regarding the training of particular individuals involved in Plaintiffs' specific  
25 incidents can be obtained through other means that are less burdensome, less  
26 costly, and more convenient. Without waiving any, and based on these objections,  
27  
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1 Defendant produced training documents relating to encampment cleanups and will  
2 produce additional training documents on a rolling basis.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

4 **NO. 17:**

5 Plaintiffs seek the production of training materials related to Encampment  
6 Cleanups. The City puts forth the same three pages it put forth in response to RFP  
7 16 in response to this request. The City continues to object that the documents are  
8 not relevant, overbroad and burdensome, and not proportionate to the needs of the  
9 case. As with RFP 16, the City has maintained its objections while still producing  
10 a patchwork of presentation agendas, sign-in sheets and slides. The City has not,  
11 however, provided nearly any presenter or participant notes, calendar invitations,  
12 or email discussions about the training. And as with RFP 16, Defendant has also  
13 refused to provide written responses that comply with Rule 34. As such, Plaintiffs  
14 have no way of knowing whether and to what extent the City is withholding  
15 responsive documents or even if it still has documents it intends to produce on a  
16 "rolling basis."

17 Because the City's response to RFP 17 is identical to RFP 16, and many of  
18 the arguments are the same (which is true for all of the training RFPs), except as  
19 noted below, Plaintiffs incorporate by reference the arguments regarding RFP 16  
20 here.

21 **a. The Requested Documents are Relevant**

22 Although Defendant has produced some responsive documents, it continues  
23 to maintain that these documents are not relevant. There is simply no basis for this  
24 objection: documents related to trainings about Encampment Cleanups are  
25 unquestionably relevant to the question of how the City conducts Encampment  
26 Cleanups, which are at the center of this litigation. Training documents are also of  
27 course relevant to establishing the City's liability under *Monell* based on its failure  
28

1 to train its ECIs. For the same reasons this objection to RFP 16 was wholly without  
2 merit, it is also meritless here.

3 **b. Defendant's Written Response Does Not Comply With Rule 34**

4 The written response to RFP 17 is, to a word, identical to its response to  
5 RFP 16, and for the same reasons the response to RFP 16 is insufficient, the  
6 response here is also insufficient.

7 **c. The Request is Not Overbroad**

8 Likewise, RFP 17 covers the same timeframe as RFP 16. Notably, because  
9 the City has conducted Encampment Cleanups prior to April 2016 when LAMC  
10 56.11 was amended, there are likely relevant documents that date much farther  
11 back than 2016. n seeking only a limited time frame that was consistent across all  
12 the RFPs, Plaintiffs specifically attempted to balance Defendant's objections with  
13 the needs of this case. And as with the rest of the training requests, Plaintiffs seek  
14 trainings that cover only a discrete topic. Therefore, the requests are not  
15 overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5.

16 **d. Plaintiffs' Narrow Request is Proportional to the Needs of the**  
17 **Case**

18 As with training documents related to enforcement of LAMC 56.11, training  
19 documents related to how the City conducts Encampment Cleanups are likewise  
20 critical to core issues in this case: 1) how the City conducted the cleanups that led  
21 to the violation of the individual Plaintiffs' rights; 2) the existence of customs,  
22 practices, and policies related to those cleanups; 3) the extent to which those  
23 customs, practices and policies violate the U.S. and California Constitutions; and  
24 4) the extent to which the City trained individuals conducting the cleanups. As  
25 discussed in detail in response to RFP 16, these requests are proportionate to the  
26 needs of the case, given the Rule 26(b)(1) factors.

**e. There is No Merit to Defendant's Other Objections**

As with RFP 16, the City fails to provide any information to support the rest of its objections. It fails to identify any storage that is not reasonably accessible. Nor does it provide any support for the application of the general objections to the RFP. Finally, the City has failed to produce any information whatsoever, let alone a privilege log, to even indicate whether it is withholding documents on the basis of privilege, let alone that the privilege is warranted. As such, and for the reasons spelled out in the response to RFP 16, the rest of Defendant's objections are waived. *See, e.g., Burlington Northern & Santa Fe Ry. Co.* at 1149; *Bosley*, 2016 WL 1704159, at \*5.

**f. Plaintiffs' Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 17 within 21 days or, if the City asserts it has produced all documents responsive to the request, compelling Defendant to provide a complete, explicit response as to the search conducted to identify and produce responsive documents and attesting to the finality of their production, as required by Rule 34.

**DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 17:**

Similar to RFP 16, RFP 17 seeks: "All DOCUMENTS related to trainings conducted by or for CITY employees, agents, or contractors regarding ENCAMPMENT CLEANUPS, including but not limited to the seizure, destruction, or storage of property [April 2016 to the present]." (Emphasis added). "Requested materials include but are not limited to any flyers, email communications promoting, announcing or otherwise describing the trainings; calendar invitations for the trainings; attendance or sign-in sheets for any and all trainings; training materials, including but not limited to presentations, handouts,

1 and manuals; presenter's notes; and notes taken by participants." (Emphasis  
2 added).

3 Plaintiffs argue that the documents are relevant both for establishing *Monell*  
4 liability as well as establishing the City's practices for purposes of prospective  
5 relief under the Declaratory Judgments Act.

6 Plaintiffs' arguments fail. First, *Monell* cannot serve as the relevance theory  
7 because the facts related to *Monell* are not in dispute and in fact, the City has  
8 offered to stipulate to *Monell* liability. *See Gonzalez v. City of Schenectady*, No.  
9 1:09-CV-1434, 2011 U.S. Dist. LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011)  
10 ("additional discovery related to strip searches is unnecessary as it is undisputed  
11 that the search was conducted pursuant to the City's written policy, which had been  
12 in effect since 1999"); Ursea Decl. ¶¶2-4; Ex. 1, 2.

13 Second, declaratory relief cannot serve as a relevance theory because only  
14 current policies and practices are relevant for prospective relief—but the current  
15 practices are not in dispute and in any event, historical documents would not be  
16 probative of current policies and practices. *See Bayer v. Nieman Marcus Group,*  
17 *Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to  
18 relevance based on *Monell* and declaratory relief are equally applicable here,  
19 Defendant incorporates by reference its argument as to RFP 2.

20 Again, Plaintiffs do not allege that the City failed to produce responsive  
21 documents but that it is entitled to all responsive documents, regardless the burden  
22 associated with locating all such documents and despite the fact that Plaintiffs have  
23 not articulated a valid relevance theory for such documents. Plaintiffs incorporate  
24 by reference their arguments as to RFP 16 based on the similarities of the requests  
25 and issues. The City likewise incorporates by reference its arguments as to RFP  
26 16. Also, because the law and analysis as to relevance and proportionality are  
27 equally applicable here, Defendant incorporates by reference its argument as to  
28



1 RFPs 2 and 11. As to Plaintiffs' argument that the City has "waived" privilege, the  
2 City incorporates by reference its argument on that issue with respect to RFP 1.

3 **REQUEST FOR PRODUCTION NO. 18:**

4 All DOCUMENTS related to trainings conducted by or for CITY  
5 employees, agents, or contractors regarding illegal dumping. Requested materials  
6 include but are not limited to any flyers, email communications promoting,  
7 announcing or otherwise describing the trainings; calendar invitations for the  
8 trainings; attendance or sign-in sheets for any and all trainings; training materials,  
9 including but not limited to presentations, handouts, and manuals; presenter's  
10 notes; notes taken by participants.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

12 Defendant incorporates the General Objections as though fully set forth here.  
13 Defendant objects that the Request is overbroad and burdensome in seeking all  
14 documents regarding trainings, including all email communications, calendar  
15 invites, and notes taken by participants or presenters, all sign in sheets, and flyers  
16 relating to training dating back to April 2016, three years before Plaintiff El-Bey's  
17 specific incidents occurred as alleged in the SAC. Defendant objects that the  
18 Request seeks documents that are not relevant to Plaintiff El-Bey's specific claims  
19 alleged in the SAC relating to incidents occurring on or around January 10, 2019 at  
20 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western.  
21 Defendant further objects that the Request seeks documents that are not relevant to  
22 any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff  
23 KFA's claims seeking any declaration that the City unconstitutionally applied  
24 LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at  
25 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a  
26 ruling that the City's policies and practices are unconstitutional and not that each  
27 past application of those policies and practices to its members was  
28

1 unconstitutional.”). Defendant also objects that the proposed discovery is not  
2 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
3 65 at 7 (accepting plaintiffs’ argument that “it need only raise a single incident ...  
4 to hold the City liable under *Monell*.”). Defendant also objects to the Request to  
5 the extent the Request seeks information protected from disclosure by the attorney-  
6 client privilege and or attorney work product doctrines. F.R.Civ.P. Rule  
7 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal.  
8 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013  
9 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

10 Defendant further objects that the Request is burdensome and not  
11 proportional to the needs of the case, insofar as the burden of searching for and  
12 producing all documents regarding trainings, including all email communications,  
13 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
14 flyers relating to training dating back to April 2016 outweighs the benefit of such  
15 information for Plaintiff El Bey’s claims, and Defendant’s costs or expense in  
16 conducting the search and producing documents greatly exceeds the amount in  
17 controversy for Plaintiff’s alleged damages.

18 Specifically, in order to search for and obtain documents responsive to the  
19 Request, Defendant would have to first search for all trainings and determine when  
20 such trainings occurred over a four-year period. Defendant would then have to  
21 investigate the identity of the instructor for each training and whether such training  
22 included a sign-in sheet, a list of participants, the identify of participants and  
23 instructor(s) for each training to conduct follow up searches regarding available  
24 notes and materials, and conduct searches for calendar invites and promotional  
25 emails or flyers for each training.

26 Defendant uses an email system known as CityMail that is based on an  
27 implementation of Google Apps Premier Edition and is used by nearly every City  
28

1 entity, including 40 different departments. Defendant's CityMail system uses the  
2 Google Vault system for archiving emails. Google Vault is a cloud-based data  
3 storage system; rather than being stored on locally managed servers, the archived  
4 email data is stored on remote servers that are managed by Google, Inc. and are  
5 only accessible to Defendant's office via the internet. In order to search the email  
6 archives, Defendant's ITA must formulate a search query utilizing the search terms  
7 and restrictions provided by the requester. Depending on the number and  
8 complexity of search terms, the number of email accounts or document custodians,  
9 and the breadth of the search, ITA may need to formulate more than one search  
10 query and scan the stored data multiple times. When the search completes, Google  
11 Vault provides preliminary information regarding the email data gathered by the  
12 search. In order to access the actual emails, however, the entire store of data must  
13 first be exported from the cloud-servers to a different "download" server to which  
14 ITA can connect via the internet and from which we can then download the data.  
15 Depending on the size of the data, the download process the most time-consuming  
16 part of gathering the email data. Even when ITA allocates multiple personnel to  
17 conduct search queries in order to speed up the archived email search and  
18 collection process, ITA is still limited by the speeds at which the data can be  
19 transferred from the download server to Defendant's local data storage devices. As  
20 downloads of batches of data become available, ITA begins the process of  
21 identifying the email addresses that accompany the data against the list of  
22 individuals identified in the data request and thereafter segregates the email stores  
23 of matching individuals. ITA would also identify and screen emails of City  
24 Attorneys begin the process of identifying and screening-out the emails of city  
25 attorneys and may need to conduct subsequent queries to screen out attorneys for  
26 purposes of compiling a list of excluded emails for a privilege log.

1 In addition, Defendant would need to determine whether a City department  
2 utilizes systems-based network servers that may include network folders used to  
3 store or maintain documents within a particular division or department section. In  
4 order to retrieve systems-based server folders for review, Defendant would require  
5 a technology professional who has administrator privileges to make a copy of the  
6 drive(s), which can range in size by terabytes of data. In order to search certain  
7 folders on system-based network drives, a technology professional who has  
8 administrator privileges, would use the Microsoft Windows File Explorer search  
9 function, the limited search function available by default on Windows. The limited  
10 search capabilities of the Windows File Explorer search tool may not be able to  
11 accommodate full searches within documents or Boolean searches. The resulting  
12 hits might include systems files, applications, downloads, or media which may or  
13 may not be viewable. After Defendant has conducted searches for electronically  
14 stored information, Defendant would require the use of an e-discovery software  
15 and platform for Defendant's counsel to review, search, and tag documents and  
16 electronically stored information for responsiveness or privilege.

17 Defendant objects that the Request seeks documents that are not reasonably  
18 accessible based on the undue burden and costs associated with searching for and  
19 producing documents and electronically stored information responsive to this  
20 Request for the reasons described above. Defendant also objects that discovery  
21 regarding the training of particular individuals involved in Plaintiff El-Bey's  
22 specific incidents can be obtained through other means that are less burdensome,  
23 less costly, and more convenient. Without waiving any, and based on these  
24 objections, Defendant responds that it conducted a search for accessible documents  
25 in response to this Request and will produce non-privileged documents relating to  
26 illegal dumping training materials in the form maintained in the Defendant's  
27 ordinary course.  
28

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad and burdensome in seeking all documents regarding trainings, including all email communications, calendar invites, and notes taken by participants or presenters, all sign in sheets, and flyers relating to training dating back to April 2016, three years before Plaintiffs' incidents occurred as alleged in the SAC. Defendant objects that the Request seeks documents that are not relevant to Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents occurring on or around March 21, 2019 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also

1 objects that the proposed discovery is not relevant to establishing *Monell* liability  
2 for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument  
3 that "it need only raise a single incident ... to hold the City liable under *Monell*.").  
4 Defendant also objects to the Request to the extent the Request seeks information  
5 protected from disclosure by the attorney-client privilege and or attorney work  
6 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
7 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
8 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
9 Sep. 9, 2013).

10 Defendant further objects that the Request is burdensome and not  
11 proportional to the needs of the case, insofar as the burden of searching for and  
12 producing all documents regarding trainings, including all email communications,  
13 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
14 flyers relating to training dating back to April 2016 outweighs the benefit of such  
15 information for Plaintiffs' claims, and Defendant's costs or expense in conducting  
16 the search and producing documents greatly exceeds the amount in controversy for  
17 Plaintiff's alleged damages.

18 Specifically, in order to search for and obtain documents responsive to the  
19 Request, Defendant would have to first search for all trainings and determine when  
20 such trainings occurred over a four-year period. Defendant would then have to  
21 investigate the identity of the instructor for each training and whether such training  
22 included a sign-in sheet, a list of participants, the identify of participants and  
23 instructor(s) for each training to conduct follow up searches regarding available  
24 notes and materials, and conduct searches for calendar invites and promotional  
25 emails or flyers for each training.

26 Defendant uses an email system known as CityMail that is based on an  
27 implementation of Google Apps Premier Edition and is used by nearly every City  
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1 entity, including 40 different departments. Defendant's CityMail system uses the  
2 Google Vault system for archiving emails. Google Vault is a cloud-based data  
3 storage system; rather than being stored on locally managed servers, the archived  
4 email data is stored on remote servers that are managed by Google, Inc. and are  
5 only accessible to Defendant's office via the internet. In order to search the email  
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8 complexity of search terms, the number of email accounts or document custodians,  
9 and the breadth of the search, ITA may need to formulate more than one search  
10 query and scan the stored data multiple times. When the search completes, Google  
11 Vault provides preliminary information regarding the email data gathered by the  
12 search. In order to access the actual emails, however, the entire store of data must  
13 first be exported from the cloud-servers to a different "download" server to which  
14 ITA can connect via the internet and from which we can then download the data.  
15 Depending on the size of the data, the download process the most time-consuming  
16 part of gathering the email data. Even when ITA allocates multiple personnel to  
17 conduct search queries in order to speed up the archived email search and  
18 collection process, ITA is still limited by the speeds at which the data can be  
19 transferred from the download server to Defendant's local data storage devices. As  
20 downloads of batches of data become available, ITA begins the process of  
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24 Attorneys begin the process of identifying and screening-out the emails of city  
25 attorneys and may need to conduct subsequent queries to screen out attorneys for  
26 purposes of compiling a list of excluded emails for a privilege log.

1 In addition, Defendant would need to determine whether a City department  
2 utilizes systems-based network servers that may include network folders used to  
3 store or maintain documents within a particular division or department section. In  
4 order to retrieve systems-based server folders for review, Defendant would require  
5 a technology professional who has administrator privileges to make a copy of the  
6 drive(s), which can range in size by terabytes of data. In order to search certain  
7 folders on system-based network drives, a technology professional who has  
8 administrator privileges, would use the Microsoft Windows File Explorer search  
9 function, the limited search function available by default on Windows. The limited  
10 search capabilities of the Windows File Explorer search tool may not be able to  
11 accommodate full searches within documents or Boolean searches. The resulting  
12 hits might include systems files, applications, downloads, or media which may or  
13 may not be viewable. After Defendant has conducted searches for electronically  
14 stored information, Defendant would require the use of an e-discovery software  
15 and platform for Defendant's counsel to review, search, and tag documents and  
16 electronically stored information for responsiveness or privilege.

17 Defendant objects that the Request seeks documents that are not reasonably  
18 accessible based on the undue burden and costs associated with searching for and  
19 producing documents and electronically stored information responsive to this  
20 Request for the reasons described above. Defendant also objects that discovery  
21 regarding the training of particular individuals involved in Plaintiff El-Bey's  
22 specific incidents can be obtained through other means that are less burdensome,  
23 less costly, and more convenient. Without waiving any, and based on these  
24 objections, Defendant produced training documents relating to illegal dumping and  
25 will produce additional training documents on a rolling basis.

**PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 18:**

Plaintiffs seek the production of training materials related to illegal dumping. The City puts forth the same three pages of objections it put forth in response to RFP 16 (and the rest of the Training RFPs). The City continues to object that the documents are not relevant, overbroad and burdensome, and not proportionate to the needs of the case. As with RFP 16, the City has maintained its objections, while still asserting that it has produced “training documents related to illegal dumping and will produce additional training documents on a rolling basis.” In fact, the City has produced few, if any, documents responsive to this request. Unlike RFPs 16 and 17 — where the City produced at least a handful of slides, training materials, etc. that can be inferred are responsive to those requests — here Plaintiffs have been unable to identify any documents that relate specifically to illegal dumping and not, for example, Encampment Cleanups or enforcement of LAMC 56.11, even though they would be directly responsive to this request. Because Defendant has provided an identical written response here and to the other Training RFPs, Plaintiffs have no way of knowing whether and to what extent the City is withholding responsive documents.

Because the City’s response to RFP 18 is identical to RFP 16, and many of the arguments are the same (which is true for all of the training RFPs), except as noted below, Plaintiffs incorporate by reference the arguments regarding RFP 16 here.

**a. The Requested Documents are Relevant**

Defendant continues to maintain that these documents are not relevant. There is simply no basis for this objection: Documents related to trainings about illegal dumping are relevant to the question of how Defendant identifies what is an Encampment, which is subject to one set of protocols, and illegal dumping, which

1 is subject to another set of protocols. In fact, Defendant specifically raised the issue  
2 of illegal dumping in its opposition to the Preliminary Injunction (confusingly  
3 arguing both that the City has the authority and does not have the authority to  
4 remove a chair under its anti-dumping ordinance). *Compare e.g.*, Def’s Opposition  
5 to Preliminary Injunction (Dkt. 42) at 15 (the City “could seize and destroy the  
6 chair under its anti-dumping ordinance”); 18 (“Anti-dumping provisions of the  
7 LAMC and state law do not authorize property removal”). The evidence is  
8 therefore also relevant for impeachment purposes. *Estate of Ernesto Flores*, 2017  
9 WL 3297507, at \*6; *Paulsen*, 168 F.R.D. at 289.

10 **b. Defendant’s Written Response Does Not Comply With Rule 34**

11 The written response to RFP 18 is, almost to a word, identical to its response  
12 to RFP 16, and for the same reasons the response to RFP 16 is insufficient, the  
13 response here is also insufficient.

14 **c. The Request is Not Overbroad**

15 Likewise, RFP 18 covers the same timeframe as RFP 16. Notably, because  
16 the City likely cleaned up encampments pursuant to its “illegal dumping” authority  
17 prior to April 2016 when LAMC 56.11 was amended, there are likely relevant  
18 documents that date much farther back than 2016; in seeking only a limited time  
19 frame that was consistent across all the RFPs, Plaintiffs specifically attempted to  
20 balance Defendant’s objections with the needs of this case. And as with the rest of  
21 the training requests, Plaintiffs seek trainings that cover only this discrete topic.  
22 Therefore, the requests are not overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5.

23 **d. Plaintiffs’ Narrow Request is Proportional to the Needs of the**  
24 **Case**

25 As with training documents related to enforcement of LAMC 56.11, training  
26 documents related to how the City trains its officers and employees to address  
27 illegal dumping is likewise critical to core issues in this case: how the City seizes  
28 and destroys items in the City’s public rights of way; and the extent to which the

1 City trained individuals addressing illegal dumping. The City puts forth no  
2 specific objections to the request for illegal dumping, and searching for documents  
3 responsive to this request is no more burdensome than searching for other training  
4 documents (presumably it would have done so at the same time). As discussed in  
5 detail in response to RFP 16, these requests are proportionate to the needs of the  
6 case, given the Rule 26(b)(1) factors.

7 **e. There is No Merit to Defendant's Other Objections**

8 As with RFP 16, the City fails to provide any information to support the rest  
9 of its objections. It fails to identify any storage that is not reasonably accessible.  
10 Nor does it provide any support for the application of the general objections to the  
11 RFP. Finally, the City has failed to produce any information whatsoever to even  
12 indicate whether it is withholding documents on the basis of privilege, let alone  
13 that the privilege is warranted. As such, and for the reasons spelled out in the  
14 response to RFP 16, the rest of Defendant's objections are waived. *See, e.g.,*  
15 *Burlington Northern & Santa Fe Ry. Co.* at 1149; *Bosley*, 2016 WL 1704159, at  
16 \*5.

17 **f. Plaintiffs' Request for Relief**

18 Plaintiffs are entitled to an order compelling the City to produce all  
19 documents responsive to RFP No. 18 within 21 days or, if the City asserts it has  
20 produced all documents responsive to the request, compelling Defendant to  
21 provide a complete, explicit response as to the search conducted to identify and  
22 produce responsive documents and attesting to the finality of their production, as  
23 required by Rule 34.

**DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 18:**

RFP 18 seeks: “All DOCUMENTS related to trainings conducted by or for CITY employees, agents, or contractors regarding illegal dumping [2016 to the present.] (Emphasis added).

Plaintiffs argue that the documents are relevant both for establishing *Monell* liability as well as establishing the City’s practices for purposes of prospective relief under the Declaratory Judgments Act.

Plaintiffs’ arguments fail. First, *Monell* cannot serve as the relevance theory because the facts related to *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell* liability. *See Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist. LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“additional discovery related to strip searches is unnecessary as it is undisputed that the search was conducted pursuant to the City’s written policy, which had been in effect since 1999”); Ursea Decl. ¶¶2-4; Ex. 1, 2.

Second, declaratory relief cannot serve as a relevance theory because only current policies and practices are relevant for prospective relief—but the current practices are not in dispute and in any event, historical documents would not be probative of current policies and practices. *See Bayer v. Nieman Marcus Group, Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to relevance based on *Monell* and declaratory relief are equally applicable here, Defendant incorporates by reference its argument as to RFP 2.

Plaintiffs also argue that “[d]ocuments related to trainings about illegal dumping are relevant to the question of how Defendant identifies what is an Encampment, which is subject to one set of protocols, and illegal dumping, which is subject to another set of protocols.” Given that Plaintiffs concede that illegal dumping is subject to “another set of protocols,” it is far from clear how training



1 materials about illegal dumping, and particularly notes, calendar invitations about  
2 such trainings dating back to 2016, are relevant to whether Plaintiffs' rights were  
3 infringed during encampment cleanups in 2019.

4 Again, Plaintiffs do not allege that the City failed to produce responsive  
5 documents. Instead, Plaintiffs contend that they "have been unable to identify any  
6 documents that relate specifically to illegal dumping and not, for example,  
7 Encampment Cleanups or enforcement of LAMC 56.11...". But Plaintiffs do not  
8 explain why training materials that discuss *only* illegal dumping, and not  
9 encampment cleanups, would have any relevance whatsoever to this case.  
10 Plaintiffs incorporate by reference their arguments as to RFP 16 based on the  
11 similarities of the requests and issues. The City likewise incorporates by reference  
12 its arguments as to RFP 16. Also, because the law and analysis as to relevance and  
13 proportionality are equally applicable here, Defendant incorporates by reference its  
14 argument as to RFPs 2 and 11. As to Plaintiffs' argument that the City has  
15 "waived" privilege, the City incorporates by reference its argument on that issue with  
16 respect to RFP 1.

17  
18 **REQUEST FOR PRODUCTION NO. 19:**

19 All DOCUMENTS related to trainings conducted by or for CITY  
20 employees, agents, or contractors at any time since January 1, 2012 regarding what  
21 constitutes "an immediate threat to public health and safety," including but not  
22 limited to the seizure, destruction, or storage or property on this basis. Requested  
23 materials include but are not limited to any flyers, email communications  
24 promoting, announcing or otherwise describing the trainings; calendar invitations  
25 for any trainings; attendance or sign-in sheets for any and all trainings; training  
26 materials, including but not limited to presentations, handouts, and manuals;  
27 presenter's notes; and notes taken by participants.  
28

**RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request is overbroad and burdensome in seeking all documents regarding trainings, including all email communications, calendar invites, and notes taken by participants or presenters, all sign in sheets, and flyers relating to training dating back to January 1, 2012, seven years before Plaintiff El-Bey's specific incidents occurred as alleged in the SAC. Defendant objects that the Request seeks documents that are not relevant to Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks documents that are not relevant to any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant also objects to the Request to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

1 Defendant further objects that the Request is burdensome and not  
2 proportional to the needs of the case, insofar as the burden of searching for and  
3 producing all documents regarding trainings, including all email communications,  
4 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
5 flyers relating to training dating back over seven years to January 1, 2012  
6 outweighs the benefit of such information for Plaintiff El Bey's claims, and  
7 Defendant's costs or expense in conducting the search and producing documents  
8 greatly exceeds the amount in controversy for Plaintiff's alleged damages.

9 Specifically, in order to search for and obtain documents responsive to the  
10 Request, Defendant would have to first search for all trainings and determine when  
11 such trainings occurred over a seven-year period. Defendant would then have to  
12 investigate the identity of the instructor for each training and whether such training  
13 included a sign-in sheet, a list of participants, the identify of participants and  
14 instructor(s) for each training to conduct follow up searches regarding available  
15 notes and materials, and conduct searches for calendar invites and promotional  
16 emails or flyers for each training.

17 Defendant uses an email system known as CityMail that is based on an  
18 implementation of Google Apps Premier Edition and is used by nearly every City  
19 entity, including 40 different departments. Defendant's CityMail system uses the  
20 Google Vault system for archiving emails. Google Vault is a cloud-based data  
21 storage system; rather than being stored on locally managed servers, the archived  
22 email data is stored on remote servers that are managed by Google, Inc. and are  
23 only accessible to Defendant's office via the internet. In order to search the email  
24 archives, Defendant's ITA must formulate a search query utilizing the search terms  
25 and restrictions provided by the requester. Depending on the number and  
26 complexity of search terms, the number of email accounts or document custodians,  
27 and the breadth of the search, ITA may need to formulate more than one search  
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1 query and scan the stored data multiple times. When the search completes, Google  
2 Vault provides preliminary information regarding the email data gathered by the  
3 search. In order to access the actual emails, however, the entire store of data must  
4 first be exported from the cloud-servers to a different “download” server to which  
5 ITA can connect via the internet and from which we can then download the data.  
6 Depending on the size of the data, the download process the most time-consuming  
7 part of gathering the email data. Even when ITA allocates multiple personnel to  
8 conduct search queries in order to speed up the archived email search and  
9 collection process, ITA is still limited by the speeds at which the data can be  
10 transferred from the download server to Defendant’s local data storage devices. As  
11 downloads of batches of data become available, ITA begins the process of  
12 identifying the email addresses that accompany the data against the list of  
13 individuals identified in the data request and thereafter segregates the email stores  
14 of matching individuals. ITA would also identify and screen emails of City  
15 Attorneys begin the process of identifying and screening-out the emails of city  
16 attorneys and may need to conduct subsequent queries to screen out attorneys for  
17 purposes of compiling a list of excluded emails for a privilege log.

18 In addition, Defendant would need to determine whether a City department  
19 utilizes systems-based network servers that may include network folders used to  
20 store or maintain documents within a particular division or department section. In  
21 order to retrieve systems-based server folders for review, Defendant would require  
22 a technology professional who has administrator privileges to make a copy of the  
23 drive(s), which can range in size by terabytes of data. In order to search certain  
24 folders on system-based network drives, a technology professional who has  
25 administrator privileges, would use the Microsoft Windows File Explorer search  
26 function, the limited search function available by default on Windows. The limited  
27 search capabilities of the Windows File Explorer search tool may not be able to  
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1 accommodate full searches within documents or Boolean searches. The resulting  
2 hits might include systems files, applications, downloads, or media which may or  
3 may not be viewable. After Defendant has conducted searches for electronically  
4 stored information, Defendant would require the use of an e-discovery software  
5 and platform for Defendant's counsel to review, search, and tag documents and  
6 electronically stored information for responsiveness or privilege.

7 Defendant objects that the Request seeks documents that are not reasonably  
8 accessible based on the undue burden and costs associated with searching for and  
9 producing documents and electronically stored information responsive to this  
10 Request for the reasons described above. Defendant also objects that discovery  
11 regarding the training of particular individuals involved in Plaintiff El-Bey's  
12 specific incidents can be obtained through other means that are less burdensome,  
13 less costly, and more convenient. Without waiving any, and based on these  
14 objections, Defendant responds that it conducted a search for accessible documents  
15 in response to this Request and will produce non-privileged documents relating to  
16 encampment cleanup training materials in the form maintained in the Defendant's  
17 ordinary course.

18 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

19 Defendant incorporates the General Objections as though fully set forth here.  
20 Defendant objects that the Request is overbroad and burdensome in seeking all  
21 documents regarding trainings, including all email communications, calendar  
22 invites, and notes taken by participants or presenters, all sign in sheets, and flyers  
23 relating to training dating back to January 1, 2012, seven years before Plaintiffs  
24 specific incidents occurred as alleged in the SAC. Defendant objects that the  
25 Request seeks documents that are not relevant to Plaintiffs' specific claims alleged  
26 in the Second Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges  
27 claims for specific incidents occurring on or around January 10, 2019 at 6th Street  
28

1 and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff  
2 Garcia alleges claims for specific incidents occurring on or around January 29,  
3 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna  
4 Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and  
5 Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents  
6 occurring on or around March 21, 2019 at 6th Street and Ardmore and on or  
7 around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges  
8 claims for incidents occurring sometime in March 2019 and a month later by  
9 Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims  
10 for a specific incident on or around April 24, 2019 at Lomita and McCoy; and  
11 Plaintiff Ashley alleges claims for a specific incident occurring on or around May  
12 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking  
13 any declaration that the City unconstitutionally applied LAMC 56.11 or the City's  
14 policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets  
15 KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies  
16 and practices are unconstitutional and not that each past application of those  
17 policies and practices to its members was unconstitutional."). Defendant also  
18 objects that the proposed discovery is not relevant to establishing *Monell* liability  
19 for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument  
20 that "it need only raise a single incident ... to hold the City liable under *Monell*").  
21 Defendant also objects to the Request to the extent the Request seeks information  
22 protected from disclosure by the attorney-client privilege and or attorney work  
23 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
24 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
25 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
26 Sep. 9, 2013).

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1 Defendant further objects that the Request is burdensome and not  
2 proportional to the needs of the case, insofar as the burden of searching for and  
3 producing all documents regarding trainings, including all email communications,  
4 calendar invites, and notes taken by participants or presenters, sign-in sheets, and  
5 flyers relating to training dating back over seven years to January 1, 2012  
6 outweighs the benefit of such information for Plaintiffs' claims, and Defendant's  
7 costs or expense in conducting the search and producing documents greatly  
8 exceeds the amount in controversy for Plaintiffs' alleged damages.

9 Specifically, in order to search for and obtain documents responsive to the  
10 Request, Defendant would have to first search for all trainings and determine when  
11 such trainings occurred over a seven-year period. Defendant would then have to  
12 investigate the identity of the instructor for each training and whether such training  
13 included a sign-in sheet, a list of participants, the identify of participants and  
14 instructor(s) for each training to conduct follow up searches regarding available  
15 notes and materials, and conduct searches for calendar invites and promotional  
16 emails or flyers for each training.

17 Defendant uses an email system known as CityMail that is based on an  
18 implementation of Google Apps Premier Edition and is used by nearly every City  
19 entity, including 40 different departments. Defendant's CityMail system uses the  
20 Google Vault system for archiving emails. Google Vault is a cloud-based data  
21 storage system; rather than being stored on locally managed servers, the archived  
22 email data is stored on remote servers that are managed by Google, Inc. and are  
23 only accessible to Defendant's office via the internet. In order to search the email  
24 archives, Defendant's ITA must formulate a search query utilizing the search terms  
25 and restrictions provided by the requester. Depending on the number and  
26 complexity of search terms, the number of email accounts or document custodians,  
27 and the breadth of the search, ITA may need to formulate more than one search  
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1 query and scan the stored data multiple times. When the search completes, Google  
2 Vault provides preliminary information regarding the email data gathered by the  
3 search. In order to access the actual emails, however, the entire store of data must  
4 first be exported from the cloud-servers to a different “download” server to which  
5 ITA can connect via the internet and from which we can then download the data.  
6 Depending on the size of the data, the download process the most time-consuming  
7 part of gathering the email data. Even when ITA allocates multiple personnel to  
8 conduct search queries in order to speed up the archived email search and  
9 collection process, ITA is still limited by the speeds at which the data can be  
10 transferred from the download server to Defendant’s local data storage devices. As  
11 downloads of batches of data become available, ITA begins the process of  
12 identifying the email addresses that accompany the data against the list of  
13 individuals identified in the data request and thereafter segregates the email stores  
14 of matching individuals. ITA would also identify and screen emails of City  
15 Attorneys begin the process of identifying and screening-out the emails of city  
16 attorneys and may need to conduct subsequent queries to screen out attorneys for  
17 purposes of compiling a list of excluded emails for a privilege log.

18 In addition, Defendant would need to determine whether a City department  
19 utilizes systems-based network servers that may include network folders used to  
20 store or maintain documents within a particular division or department section. In  
21 order to retrieve systems-based server folders for review, Defendant would require  
22 a technology professional who has administrator privileges to make a copy of the  
23 drive(s), which can range in size by terabytes of data. In order to search certain  
24 folders on system-based network drives, a technology professional who has  
25 administrator privileges, would use the Microsoft Windows File Explorer search  
26 function, the limited search function available by default on Windows. The limited  
27 search capabilities of the Windows File Explorer search tool may not be able to  
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1 accommodate full searches within documents or Boolean searches. The resulting  
2 hits might include systems files, applications, downloads, or media which may or  
3 may not be viewable. After Defendant has conducted searches for electronically  
4 stored information, Defendant would require the use of an e-discovery software  
5 and platform for Defendant's counsel to review, search, and tag documents and  
6 electronically stored information for responsiveness or privilege.

7 Defendant objects that the Request seeks documents that are not reasonably  
8 accessible based on the undue burden and costs associated with searching for and  
9 producing documents and electronically stored information responsive to this  
10 Request for the reasons described above. Defendant also objects that discovery  
11 regarding the training of particular individuals involved in Plaintiffs' specific  
12 incidents can be obtained through other means that are less burdensome, less  
13 costly, and more convenient. Without waiving any, and based on these objections,  
14 Defendant produced training documents relating to hazardous materials and  
15 immediate threats to public health and safety and will produce additional training  
16 documents on a rolling basis.

17 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

18 **NO. 19:**

19 Plaintiffs seek the production of training materials related to what constitutes  
20 "an immediate threat to public health and safety" going back to January 1, 2012.  
21 The City puts forth the same three pages of it put forth in response to RFP 16 to  
22 this request. The City continues to object that the documents are not relevant,  
23 overbroad and burdensome, and not proportionate to the needs of the case. As  
24 with RFP 16, the City has maintained its objections while still producing a  
25 patchwork of presentation agendas, sign-in sheets and slides. The City has not,  
26 however, provided nearly any presenter or participant notes, calendar invitations,  
27 or email discussions about the training. As with RFP 16, Defendant has also  
28

1 refused to provide written responses that comply with Rule 34. As such, Plaintiffs  
2 have no way of knowing whether and to what extent the City is withholding  
3 responsive documents or even if it still has documents it intends to produce on a  
4 “rolling basis.”

5 Because the City’s response to RFP 18 is identical to RFP 16, and many of  
6 the arguments are the same (which is true for all of the training RFPs), except as  
7 noted below, Plaintiffs incorporate by reference the arguments regarding RFP 16  
8 here.

9 **a. The Requested Documents are Relevant**

10 Although Defendant has produced some responsive documents, it continues  
11 to maintain that these documents are not relevant. There is simply no basis for this  
12 objection. The identification of items as “an immediate threat to public health and  
13 safety” is the primary basis upon which the City destroys, rather than impounds  
14 people’s belongings, including the Plaintiffs in this case. It is a central issue in this  
15 case, and therefore, trainings on these topics are highly relevant. Defendant’s  
16 continued insistence that these documents are not relevant is simply indefensible  
17 and an abuse of the discovery process.

18 **b. Defendant’s Written Response Does Not Comply With Rule 34**

19 The written response to RFP 19 is, almost to a word, identical to its response  
20 to RFP 16, and for the same reasons the response to RFP 16 is insufficient, the  
21 response here is also insufficient.

22 **c. The Request is Not Overbroad**

23 Because of the centrality of the issue to this litigation, RFP 19 covers a  
24 broader timeframe than any other RFP. Specifically, Plaintiffs seek documents  
25 going back to 2012, which is related to the upholding of the Preliminary Injunction  
26 in *Lavan v. City of Los Angeles*, 797 F. Supp. 2d 1005 (C.D. Cal. 2011) *affirmed*  
27 693 F.3d 1022 (9<sup>th</sup> Cir. 2012). In that injunction, the District Court prohibited the  
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1 City from seizing and destroying property “unless it is an immediate threat to  
2 public health and safety.” 797 F. Supp. 2d at 1022. This language is the origin for  
3 the provision in LAMC 56.11, which the City relies on to seize and destroy  
4 people’s belongings, including the Plaintiffs’. *See* LAMC 56.11(g) (“Without  
5 prior notice, the City may remove and may discard any Personal Property....[that]  
6 poses an immediate threat to the health or safety of the public.”). As such,  
7 Plaintiffs seek trainings that go back to the origin of the use of the term, and the  
8 trainings that were conducted as a result of these rulings and going forward. The  
9 request is therefore appropriately time-limited, and as with the rest of the training  
10 requests, Plaintiffs seek trainings that cover only a discrete topic. Therefore, the  
11 requests are not overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5.

12 **d. Plaintiffs’ Narrow Request is Proportional to the Needs of the**  
13 **Case**

14 As with training documents related to enforcement of LAMC 56.11, training  
15 documents related to how the City identifies what constitutes an immediate threat  
16 to public health and safety are likewise critical to core issues in this case: whether  
17 and to what extent the City’s immediate destruction of property is reasonable and  
18 the extent to which the City could provide more due process prior to that  
19 destruction. There are few issues more central to this case. Because, as discussed  
20 in the response to RFP 16, the only burden identified by Defendant is the burden  
21 that comes simply from conducting discovery, the requests are proportionate to the  
22 needs of the case, given the Rule 26(b)(1) factors.

23 **e. There is No Merit to Defendant’s Other Objections**

24 As with RFP 16, the City fails to provide any information to support the rest  
25 of its objections. It fails to identify any storage that is not “reasonably accessible.”  
26 Nor does it provide any support for the application of the general objections to the  
27 RFP. Finally, the City has failed to produce any information whatsoever to even  
28 indicate whether it is withholding documents on the basis of privilege, let alone

1 that the privilege is warranted. As such, and for the reasons spelled out in the  
2 response to RFP 16, the rest of Defendant's objections are waived. *See, e.g.,*  
3 *Burlington Northern & Santa Fe Ry. Co.* at 1149; *Bosley*, 2016 WL 1704159, at  
4 \*5.

5 **f. Plaintiffs' Request for Relief**

6 Plaintiffs are entitled to an order compelling the City to produce  
7 all documents responsive to RFP No. 19 within 21 days or, if the City asserts it has  
8 produced all documents responsive to the request, compelling Defendant to  
9 provide a complete, explicit response as to the search conducted to identify and  
10 produce responsive documents and attesting to the finality of their production, as  
11 required by Rule 34.

12 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**  
13 **NO. 19:**

14 RFP 19 seeks: "All DOCUMENTS related to trainings conducted by or for  
15 CITY employees, agents, or contractors at any time since January 1, 2012  
16 regarding what constitutes "an immediate threat to public health and safety,"  
17 including but not limited to the seizure, destruction, or storage or property on this  
18 basis." (Emphasis added). "Requested materials include but are not limited to any  
19 flyers, email communications promoting, announcing or otherwise describing the  
20 trainings; calendar invitations for any trainings; attendance or sign-in sheets for  
21 any and all trainings; training materials, including but not limited to presentations,  
22 handouts, and manuals; presenter's notes; and notes taken by participants."  
23 (Emphasis added).

24 Plaintiffs argue that the documents are relevant both for establishing *Monell*  
25 liability as well as establishing the City's practices for purposes of prospective  
26 relief under the Declaratory Judgments Act. Plaintiffs' arguments fail.



1 First, *Monell* cannot serve as the relevance theory because the facts related  
2 to *Monell* are not in dispute and in fact, the City has offered to stipulate to *Monell*  
3 liability. See *Gonzalez v. City of Schenectady*, No. 1:09-CV-1434, 2011 U.S. Dist.  
4 LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30, 2011) (“additional discovery related to  
5 strip searches is unnecessary as it is undisputed that the search was conducted  
6 pursuant to the City's written policy, which had been in effect since 1999”); *Ursea*  
7 Decl. ¶¶2-4; Ex. 1, 2.

8 Second, declaratory relief cannot serve as a relevance theory because only  
9 current policies and practices are relevant for prospective relief—but the current  
10 practices are not in dispute and in any event, historical documents would not be  
11 probative of current policies and practices. See *Bayer v. Nieman Marcus Group,*  
12 *Inc.*, 861 F.3d 853, 868 (9th Cir. 2017). Because the law and analysis as to  
13 relevance based on *Monell* and declaratory relief are equally applicable here,  
14 Defendant incorporates by reference its argument as to RFP 2.

15 Plaintiffs also contend that documents going back to 2012 are relevant  
16 because that date relates to the upholding of the Preliminary Injunction in *Lavan v.*  
17 *City of Los Angeles*, 797 F. Supp. 2d 1005 (C.D. Cal. 2011) *affirmed* 693 F.3d  
18 1022 (9<sup>th</sup> Cir. 2012), in which “the District Court prohibited the City from seizing  
19 and destroying property ‘unless it is an immediate threat to public health and  
20 safety.’ 797 F. Supp. 2d at 1022. Plaintiffs further contend that “[t]his language is  
21 the origin for the provision in LAMC 56.11, which the City relies on to seize and  
22 destroy people’s belongings, including the Plaintiffs’. As such, Plaintiffs seek  
23 trainings that go back to the origin of the use of the term, and the trainings that  
24 were conducted as a result of these rulings and going forward.” Plaintiffs’  
25 argument fails to establish the relevance of this RFP. Plaintiffs fail to explain how  
26 the City’s interpretation of the term “immediate threat to public health and safety”  
27 in 2012 has any bearing on how that term is interpreted now. In any event, the  
28

1 question is not how the City interprets the term “immediate threat to public health  
2 and safety” in the abstract but rather whether the property Plaintiffs alleged was  
3 destroyed in 2019 did in fact pose an immediate threat to public health and safety.

4 As with all the training-related RFPs, Plaintiffs concede that the City has  
5 produced responsive documents; Plaintiffs’ motion seeks to compel the production  
6 of *all* such documents, this time dating back to seven years before the alleged  
7 incidents giving rise to this case occurred. Plaintiffs’ motion has no merit.  
8 Plaintiffs incorporate by reference their arguments as to RFP 16 based on the  
9 similarities of the requests and issues. The City likewise incorporates by reference  
10 their arguments as to RFP 16. Also, because the law and analysis as to relevance  
11 and proportionality are equally applicable here, Defendant incorporates by  
12 reference its argument as to RFPs 2 and 11. As to Plaintiffs’ argument that the  
13 City has “waived” privilege, the City incorporates by reference its argument on that  
14 issue with respect to RFP 1.

15  
16 **REQUEST FOR PRODUCTION NO. 23:**

17 All COMMUNICATIONS related to the use of forms used by the CITY or  
18 any of its contractors or subcontractors, including Chrysalis, LAHSA, and Clean  
19 Harbors, that are related to ENCAMPMENT CLEANUPS, including but not  
20 limited to any email instructions or clarifications related to the use of the forms.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

22 Defendant incorporates the General Objections as though fully set forth here.  
23 Defendant objects that the Request seeks documents that are not relevant to  
24 Plaintiff El-Bey’s specific claims alleged in the SAC relating to incidents occurring  
25 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
26 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
27 documents that are not relevant to any named-plaintiffs’ claims as alleged in the  
28

1 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
2 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
3 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
4 SAC as seeking only to obtain a ruling that the City's policies and practices are  
5 unconstitutional and not that each past application of those policies and practices to  
6 its members was unconstitutional."). Defendant also objects that the proposed  
7 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
8 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
9 single incident ... to hold the City liable under *Monell*."). Defendant objects that  
10 the Request is overbroad and burdensome in seeking all communications,  
11 including emails, regarding the use of forms by Defendant, LAHSA, Chrysalis, and  
12 Clean Harbors dating back to April 2016, three years before Plaintiff El-Bey's  
13 specific incidents occurred as alleged in the SAC. Defendant also objects to the  
14 Request to the extent the Request seeks information protected from disclosure by  
15 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
16 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
17 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
18 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

19 Defendant further objects that the Request is burdensome and not  
20 proportional to the needs of the case, insofar as the burden of searching for and  
21 producing all communications, including emails, regarding the use of forms by  
22 Defendant, LAHSA, Chrysalis, and Clean Harbors dating back to April 2016  
23 outweighs the benefit of such information for Plaintiff El Bey's claims, and  
24 Defendant's costs or expense in conducting the search and producing documents  
25 greatly exceeds the amount in controversy for Plaintiff's alleged damages.

26 Specifically, in order to search for and obtain documents responsive to the  
27 Request, Defendant would have to investigate the identify of all potential  
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1 custodians who may have sent or received an email regarding the use of form for  
2 an encampment cleanup over a four-year period, including personnel from  
3 LASAN, UHRC, LAPD, the City Attorney's Office, and possibly other City  
4 departments. Defendant would then have to conduct search parameters for all  
5 communications over a four-year period involving all identified custodians from  
6 different City departments.

7 Defendant uses an email system known as City Mail that is based on an  
8 implementation of Google Apps Premier Edition and is used by nearly every City  
9 entity, including 40 different departments. Defendant's City Mail system uses the  
10 Google Vault system for archiving emails. Google Vault is a cloud-based data  
11 storage system; rather than being stored on locally managed servers, the archived  
12 email data is stored on remote servers that are managed by Google, Inc. and are  
13 only accessible to Defendant's office via the internet. In order to search the email  
14 archives, Defendant's ITA must formulate a search query utilizing the search terms  
15 and restrictions provided by the requester. Depending on the number and  
16 complexity of search terms, the number of email accounts or document custodians,  
17 and the breadth of the search, ITA may need to formulate more than one search  
18 query and scan the stored data multiple times. When the search completes, Google  
19 Vault provides preliminary information regarding the email data gathered by the  
20 search. In order to access the actual emails, however, the entire store of data must  
21 first be exported from the cloud-servers to a different "download" server to which  
22 ITA can connect via the internet and from which we can then download the data.  
23 Depending on the size of the data, the download process the most time-consuming  
24 part of gathering the email data. Even when ITA allocates multiple personnel to  
25 conduct search queries in order to speed up the archived email search and  
26 collection process, ITA is still limited by the speeds at which the data can be  
27 transferred from the download server to Defendant's local data storage devices. As  
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1 downloads of batches of data become available, ITA begins the process of  
2 identifying the email addresses that accompany the data against the list of  
3 individuals identified in the data request and thereafter segregates the email stores  
4 of matching individuals. ITA would also identify and screen emails of City  
5 Attorneys begin the process of identifying and screening-out the emails of city  
6 attorneys and may need to conduct subsequent queries to screen out attorneys for  
7 purposes of compiling a list of excluded emails for a privilege log.

8 In addition, Defendant would need to determine whether a City department  
9 utilizes systems-based network servers that may include network folders used to  
10 store or maintain communications within a particular division or department  
11 section. In order to retrieve systems-based server folders for review, Defendant  
12 would require a technology professional who has administrator privileges to make  
13 a copy of the drive(s), which can range in size by terabytes of data. In order to  
14 search certain folders on system-based network drives, a technology professional  
15 who has administrator privileges, would use the Microsoft Windows File Explorer  
16 search function, the limited search function available by default on Windows. The  
17 limited search capabilities of the Windows File Explorer search tool may not be  
18 able to accommodate full searches within documents or Boolean searches. The  
19 resulting hits might include systems files, applications, downloads, or media which  
20 may or may not be viewable. After Defendant has conducted searches for  
21 electronically stored information, Defendant would require the use of an e-  
22 discovery software and platform for Defendant's counsel to review, search, and tag  
23 documents and electronically stored information for responsiveness or privilege.

24 Defendant objects that the Request seeks documents that are not reasonably  
25 accessible based on the undue burden and costs associated with searching for and  
26 producing documents and electronically stored information responsive to this  
27  
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1 Request for the reasons described above. Without waiving any, and based on these  
2 objections, no documents will be produced in response to this Request.

3 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

4 Defendant incorporates the General Objections as though fully set forth here.  
5 Defendant objects that the Request seeks documents that are not relevant to  
6 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
7 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
8 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
9 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
10 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
11 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
12 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
13 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
14 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
15 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
16 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
17 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
18 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
19 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
20 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
21 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
22 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
23 obtain a ruling that the City's policies and practices are unconstitutional and not  
24 that each past application of those policies and practices to its members was  
25 unconstitutional."). Defendant also objects that the proposed discovery is not  
26 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
27 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
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1 to hold the City liable under *Monell*.”). Defendant objects that the Request is  
2 overbroad and burdensome in seeking all communications, including emails,  
3 regarding the use of forms by Defendant, LAHSA, Chrysalis, and Clean Harbors  
4 dating back to April 2016, three years before Plaintiffs’ specific incidents occurred  
5 as alleged in the SAC. Defendant also objects to the Request to the extent the  
6 Request seeks information protected from disclosure by the attorney-client  
7 privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B);  
8 *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v.*  
9 *Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis  
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11 Defendant further objects that the Request is burdensome and not  
12 proportional to the needs of the case, insofar as the burden of searching for and  
13 producing all communications, including emails, regarding the use of forms by  
14 Defendant, LAHSA, Chrysalis, and Clean Harbors dating back to April 2016  
15 outweighs the benefit of such information for Plaintiffs’ claims, and Defendant’s  
16 costs or expense in conducting the search and producing documents greatly  
17 exceeds the amount in controversy for Plaintiff’s alleged damages.

18 Specifically, in order to search for and obtain documents responsive to the  
19 Request, Defendant would have to investigate the identify of all potential  
20 custodians who may have sent or received an email regarding the use of form for  
21 an encampment cleanup over a four-year period, including personnel from  
22 LASAN, UHRC, LAPD, the City Attorney’s Office, and possibly other City  
23 departments. Defendant would then have to conduct search parameters for all  
24 communications over a four-year period involving all identified custodians from  
25 different City departments.

26 Defendant uses an email system known as City Mail that is based on an  
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1 entity, including 40 different departments. Defendant's City Mail system uses the  
2 Google Vault system for archiving emails. Google Vault is a cloud-based data  
3 storage system; rather than being stored on locally managed servers, the archived  
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13 first be exported from the cloud-servers to a different "download" server to which  
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6 a copy of the drive(s), which can range in size by terabytes of data. In order to  
7 search certain folders on system-based network drives, a technology professional  
8 who has administrator privileges, would use the Microsoft Windows File Explorer  
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10 limited search capabilities of the Windows File Explorer search tool may not be  
11 able to accommodate full searches within documents or Boolean searches. The  
12 resulting hits might include systems files, applications, downloads, or media which  
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15 discovery software and platform for Defendant's counsel to review, search, and tag  
16 documents and electronically stored information for responsiveness or privilege.

17 Defendant objects that the Request seeks documents that are not reasonably  
18 accessible based on the undue burden and costs associated with searching for and  
19 producing documents and electronically stored information responsive to this  
20 Request for the reasons described above. Subject to and without waiving these  
21 objections, Defendant previously produced certain documents responsive to this  
22 Request, including LASAN interdepartmental memoranda and instructions  
23 regarding the use of forms for encampment cleanups.

24 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
25 **NO. 23:**

26 RFPs 21-23 seek documents related to the forms used by the City and its  
27 contractors and subcontractors. RFP 21 seeks the forms itself. RFP 22 seeks  
28

1 instructions, training materials and policies related to the use of these forms. RFP  
2 23 seeks communications related to the use of these forms, including any email  
3 communications related to the use of these forms. The City has produced  
4 documents responsive to the first two requests, and further agrees to produce  
5 additional documents, if any, in its possession, custody or control. With regards to  
6 this request, the City objects to the production of any documents responsive to this  
7 request. Other than the past production of “interdepartmental memoranda and  
8 instructions regarding the use of forms for encampment cleanups,” which would be  
9 responsive to RFP 22, the City did not agree to produce any records responsive to  
10 this request. Since then, the City agreed to produce emails responsive to Plaintiffs’  
11 request, yet despite the fact that Plaintiffs provided the City with an initial list of  
12 search terms and custodians more than 100 days ago, the City has not provided any  
13 emails responsive to this request, nor has it provided any information regarding the  
14 use of search terms or even answered any of Plaintiffs’ repeated requests for a  
15 timeline related to the production of documents, or identified a date certain by  
16 which the City will produce emails. The City has refused to meet and confer about  
17 any of the issues it has asserted would cause delay, and as of March 3, 2021,  
18 continued to assert that the production of emails is neither relevant nor  
19 proportional to the needs of the case.

20 At this point, the City’s failure to produce responsive documents or respond  
21 to Plaintiffs’ repeated requests for a date certain by which the documents will be  
22 produced amounts to a refusal to produce documents, and Plaintiffs seek an order  
23 compelling production of these documents.

24 **a. The Documents are Relevant**

25 Communications related to the use of forms documenting encampment  
26 cleanups are relevant for a number of reasons. As discussed in detail above, the  
27 City itself contends that the documentation of Encampment Cleanups is important,  
28

1 not only as evidence of cleanups, but also to guide the cleanups themselves. *See*,  
2 *e.g.*, Myers Decl., Exh. J at ¶ 52 (describing items as “determined to be  
3 contaminated material under the Health Hazzard Checklist”). *See also* Order  
4 Granting Plaintiffs’ Motion for Preliminary Injunction (Dkt. 58). As Mr. Wong  
5 and the District Court noted, hazards are documented on the Health Hazards  
6 checklist and guided by the categories that are listed on the checklist. *See, e.g.*,  
7 Myers Decl., Exh. J at ¶ 16 “[The Livability Services Division] added vectors on  
8 its health hazard checklist specifically because of the prevalence of this hazard in  
9 encampments.”). Therefore, communications about the forms are relevant to the  
10 core issues in this case.

11 Second, the City has attempted to enter the documents into evidence as a  
12 business record. *See id.*, ¶¶ 24-40. *See also* Fed. Rule Evid. 803(b). Therefore,  
13 communications related to the use of the forms are relevant to the question of  
14 whether and to what extent the records qualify as business records. *See, e.g., U.S.*  
15 *v. Miller*, 771 F.2d 1219, 1237 (9th Cir. 1985) (discussing the admissibility of  
16 business records and noting that “record will not be admissible, however, if the  
17 source of information or the method or circumstances of preparation indicate a lack  
18 of trustworthiness”).

19 Third, as discussed in detail in response to RFPs 2 and 33 and 34, the  
20 documentation of encampments that is created by LA Sanitation and its contractors  
21 are narrative accounts of what occur during the cleanups and may be important  
22 evidence of what occurs at cleanups. Therefore, communications about how  
23 individuals are instructed to fill out these forms is relevant for impeachment  
24 purposes. *Estate of Ernesto Flores*, 2017 WL 3297507, at \*6; *Paulsen*, 168 F.R.D.  
25 at 289.

1           **b. The Request is not Overbroad**

2           Plaintiffs' requests going back just two years and eight months. Notably,  
3           because the City has conducted Encampment Cleanups prior to April 2016 when  
4           LAMC 56.11 was amended, there are likely relevant documents that date much  
5           farther back than 2016. In seeking only a limited time frame that was consistent  
6           across all of the RFPs, Plaintiffs specifically attempted to balance Defendant's  
7           objections with the needs of this case. And as with the rest of the training requests,  
8           Plaintiffs seek trainings that cover only a discrete topic. Therefore, the requests are  
9           not overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5.

10           **c. Plaintiffs' Narrow Request is Proportional to the Needs of the Case**

11           Because Defendant disagrees that these documents are relevant, let alone  
12           important to the case, Defendant likewise argues that any burden, even the routine  
13           burden of discovery, is not proportionate to the needs of the case. But this  
14           objection is without merit. As discussed in detail above, the issues at stake in this  
15           litigation are of constitutional significance, the amount in controversy is largely  
16           irrelevant given that Plaintiffs primarily seek prospective relief to put an end to the  
17           City's unconstitutional practices, and the City of Los Angeles has far more  
18           resources than the seven unhoused individuals whose belongings were seized and  
19           the volunteer organization whose resources go to replacing those belongings. *See*  
20           *supra*, Plaintiffs' Argument re: Request No. 2. The other factors also weigh  
21           heavily in Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).

22           **d. Parties' Relative Access to Information**

23           As discussed in detail above, Plaintiffs have little to no information about  
24           cleanups. The City has already relied heavily on the Encampment Cleanup  
25           documents, and attempts to put the documents forward as business records. The  
26           authenticity and trustworthiness of these documents is therefore incredibly  
27           important, but because of the nature of cleanups, the City controls the information  
28



1 that feeds into the reports. Therefore, access to the City's internal discussions  
2 about the forms are important, but without discovery on this issue, Plaintiffs would  
3 have no other access to that information.

4 **e. Importance of the Discovery in Resolving the Issues**

5 As discussed above, these documents are central to the main issue in this  
6 case: the existence of policies, customs, and practices related to Encampment  
7 Cleanups. As the City demonstrated by relying explicitly on the Encampment  
8 Cleanup reports, these documents are central to the implementation of the City's  
9 customs, policies and practices, and therefore, communications related to the use  
10 of forms is likewise important to that issue, which is at the center of Plaintiffs'  
11 *Monell* claims and claims for injunctive relief.

12 In addition, this discovery is important to the individual Plaintiffs' claims.  
13 Even when the issue before the Court was the facial validity of an ordinance, the  
14 City still relied on the forms in an attempt to undermine Plaintiffs' credibility.  
15 Plaintiffs likewise should be able to challenge the credibility of those documents.

16 **f. Whether the Burden or Expense of the Proposed Discovery**  
17 **Outweighs its Likely Benefit**

18 Defendant argues that it would be too burdensome to produce documents  
19 responsive to this request, but the City lays out what is, in essence nothing more  
20 than the routine burden associated with identifying responsive emails: 1)  
21 identifying custodians; 2) formulating searches; 3) running those searches; 4)  
22 exporting data; and 5) screening for privilege. Accepting this burden analysis  
23 would be tantamount to accepting the City's argument that the production of email  
24 itself is too burdensome, regardless of how relevant and dispositive the emails are  
25 to the case.

26 There is simply no merit to this argument. There is nothing in Rule 34 that  
27 distinguishes responsive emails from any other type of data nor that "requires a  
28 requesting party to identify custodians or search terms." *NuVasive, Inc.* 2019 WL

1 4934477, at \*2. Instead, “Plaintiff must request information, regardless of how or  
2 where it is maintained by Defendants, which Defendants must address as required  
3 by Rule 34. That is discovery: a party requests information and the burden is on the  
4 producing party to locate and produce it or object legitimately to production.” *Id.*

5 Plaintiffs attempted to address the City’s burden argument by providing  
6 custodians and search terms, but while the City has agreed to search for emails,  
7 Plaintiffs provided an initial list over 100 days ago, and the City has failed to  
8 provide even an estimated time when Plaintiffs will receive the documents, let  
9 alone the documents themselves. The City’s latest email, indicating the City’s  
10 intention to meet and confer about the proportionality of the request at some date  
11 in the future, underscores the need for court intervention. While Plaintiffs have  
12 repeatedly offered to meet and confer about the production of emails, Defendant  
13 still refuses to concede that Plaintiffs are entitled to the production of emails, based  
14 on its willful misrepresentation about the scope of this litigation and its untenable  
15 position that the requested documents are not relevant. This is indefensible. The  
16 City is taking an unreasonable amount of time to produce responsive documents,  
17 which is causing significant delay. Plaintiffs’ requests for responsive documents  
18 are relevant and proportional to the needs of the case, and there no support for the  
19 City’s contrary position. The City cannot “show grounds for failing to provide the  
20 requested discovery,” which the City must do to prevail here. *In re: Citimortgage*,  
21 2012 WL 10450139, at \*4.

22 **g. The Documents are “Reasonably Accessible” under Rule**  
23 **26(b)(2)(B)**

24 Defendant objects that the documents sought are not “reasonably accessible,  
25 based on the undue burden and costs associated with searching for and producing  
26 documents responsive to this Request. . . .” To the extent the City intends this  
27 objection to refer to the special limitation for ESI under Rule 26(b)(2)(B),  
28 Defendants have not identified, as is its burden, what sources of data are not

1 “readily accessible” so the parties can address the burden. *Id.* at 2. The City’s  
2 objection spelling out the process for obtaining the documents makes clear that the  
3 relevant records are stored in active servers (and paper copy). No restoration of  
4 any kind is necessary. The only step the City identifies as burdensome is  
5 downloading the data from the cloud, but “[m]oving active and easily accessible  
6 ESI from one storage medium to another does not, by itself, render it inaccessible.”  
7 *Al Otra Lado*, 328 F.R.D. at 421. *See also Sung Gon Kang*, 2020 WL 1689708, at  
8 \*5. And it is not a basis for such an interminable delay in the production of these  
9 documents.

10 **h. There is No Merit to the City’s Other Objections**

11 **i. Claims of privilege**

12 The City objects insofar as there are documents protected by attorney-  
13 privilege and work product. As discussed above, despite numerous requests  
14 Defendants have not produced a privilege log or any other details to substantiate its  
15 boilerplate objection. Defendant has therefore waived this objection. *Burlington*  
16 *Northern & Santa Fe Ry. Co.*, 408 F.3d. at 1149. *See also DeSilva*, 2020 WL  
17 5947827, at \*2.

18 **ii. Other boilerplate general objections**

19 In addition to the specific objections to relevance and proportionality, the  
20 City provides three pages of general boilerplate objections. The City simply  
21 incorporates these objections by reference into each of the requests for production,  
22 without providing any basis for the specific objection or even an assessment of  
23 whether the objection specifically applies to the request. To the extent any of them  
24 even applied to this RFP, Defendant therefore waived these objections. *See*  
25 *e.g., Bosley*, 2016 WL 1704159, at \*5, n. 3.

**i. Plaintiffs' Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 23 within 21 days.

**DEFENDANT'S ARGUMENT RE REQUEST FOR PRODUCTION NO. 23:**

RFP 23 seeks: "All COMMUNICATIONS related to the use of forms used by the CITY or any of its contractors or subcontractors, including Chrysalis, LAHSA, and Clean Harbors, that are related to ENCAMPMENT CLEANUPS, including but not limited to any email instructions or clarifications related to the use of the forms [2016 to the present]." (Emphasis added).

Plaintiffs concede that the City has produced the actual forms related to encampment cleanups, as well as training materials related to those forms: "RFPs 21-23 seek documents related to the forms used by the City and its contractors and subcontractors. RFP 21 seeks the forms itself. RFP 22 seeks instructions, training materials and policies related to the use of these forms. RFP 23 seeks communications related to the use of these forms, including any email communications related to the use of these forms. The City has produced documents responsive to the first two requests, and further agrees to produce additional documents, if any, in its possession, custody or control." (Emphasis added)." Plaintiffs also acknowledge that the City has "agreed to produce emails responsive to Plaintiffs' request." Given those concessions, Plaintiffs motion to compel has no merit.

As a threshold matter, Plaintiffs have not established the relevance of communications about "the use of forms...related to encampment cleanups." Plaintiffs advance three relevance theories. All fail.

First, Plaintiffs argue that "documentation of Encampment Cleanups is important, not only as evidence of cleanups, but also to guide the cleanups themselves," but do not explain how communications about forms related to that

1 documentation has any bearing on their claims. The argument is particularly weak  
2 given Plaintiffs' admission that the City has produced both the forms and trainings  
3 related to such forms.

4 Second, Plaintiffs argue that "the City has attempted to enter the documents  
5 into evidence as a business record." But again, Plaintiffs fail to explain why  
6 communications about the use of forms in some abstract way untethered from any  
7 allegations in the SAC would be relevant for this purpose.

8 Third, Plaintiffs argue that "communications about how individuals are  
9 instructed to fill out these forms is relevant for impeachment purposes." But again,  
10 Plaintiffs fail to explain why communications about the use of forms in some  
11 abstract way untethered from any allegations in the SAC would be relevant for this  
12 purpose.

13 Even if Plaintiffs could establish relevance, their demand is not proportional  
14 to the needs of this case. Not only has the City produced the forms Plaintiffs  
15 requested, it has produced training materials concerning those forms. It has also  
16 agreed to produce certain emails and has in fact produced over 20,000 such emails.  
17 In fact, the City was in the process of producing the agreed-upon emails when  
18 Plaintiffs served their portion of this stipulation. Ursea Decl. ¶¶19, 23, 34, 36-43.

19 It appears that the basis for moving on this RFP is Plaintiffs' belief that the  
20 City has not produced the emails quickly enough. Plaintiffs contend that they  
21 "provided the City with an initial list of search terms and custodians more than 100  
22 days ago, [but] the City has not provided any emails responsive to this request, nor  
23 has it provided any information regarding the use of search terms or even answered  
24 any of Plaintiffs' repeated requests for a timeline related to the production of  
25 documents, or identified a date certain by which the City will produce emails."

26 But Plaintiffs' representation does not accurately reflect the parties'  
27 negotiations concerning email collections and productions.  
28

1 The City agreed to meet and confer about custodians and search terms on  
2 August 24, 2020. Lebron Decl. ¶11, Ex. 36. When Plaintiffs failed to propose any  
3 custodians or search terms, the City reiterated its agreement to meet and confer in a  
4 letter dated September 25, 2020. Lebron Decl. ¶12, Ex. 37. Yet, Plaintiffs did not  
5 provide a proposed “initial” list of custodians and search term until November 24,  
6 2020—three months after the City first invited them to do so. Ursea Decl. ¶13, Ex.  
7 8.

8 Plaintiffs’ November 24, 2020 proposal included 20 specific custodians  
9 from four different departments—LAPD, LASAN, UHRC, and the City Attorneys’  
10 Office—plus “all Council staff,” and “City witnessed identified in the Rule 26  
11 [disclosure] [sic].” Ursea Decl. ¶13, Ex. 8. The search terms Plaintiffs proposed  
12 were broad, including: 56.11, bulky, hazard, storage, notice, trash bags, toilet,  
13 HOPE, and CARE. Ursea Decl. ¶¶23, 34. Because the City’s search capabilities  
14 do not permit case-sensitive searches, and the terms “hope” and “care” are  
15 common, the City sought to meet and confer about the terms before the searches  
16 were run to limit the likelihood of false hits such as “I **hope** you are well” and  
17 “take **care**” and proposed alternative searches. Ursea Decl. ¶¶15-17.

18 In response, Plaintiffs’ counsel counter-proposed alternative searches on  
19 December 7, 2020 but accused the City of unreasonably delaying running the  
20 search terms Plaintiffs initially proposed. Ursea Decl. ¶18. The City reiterated the  
21 cumbersome and time-consuming nature of searching for emails, which it had  
22 explained to Plaintiffs in prior meet-and-confer letters and also detailed in its RFP  
23 responses. *See* Ursea Decl. ¶19. Also, rather than pursuing further custodian and  
24 search-term negotiations at the outset and being accused of further delay, the City  
25 agreed to have the respective ITA departments run Plaintiffs’ proposed custodians  
26 and search terms, with the agreement that after the results came back, the parties  
27 would likely need to meet and confer to reasonably limit the dataset. *Id.*  
28



1 As to Plaintiffs' request for emails of "all council staff," the City explained  
2 that a preliminary inquiry indicated that this would require searching emails for  
3 over 60 employees, not including former employees. *Id.* As a compromise, the  
4 City said it would work on identifying the employees in each Council District that  
5 were/are most likely to communicate about cleanups, 56.11, and related  
6 authorizations 2018 to the present and that it would propose a subset of custodians  
7 from those Council Districts once we have completed our inquiry. *Id.* The City  
8 also invited Plaintiffs to provide names of council staff members. *Id.*

9 Between December 14 and 17, 2020, the ITA department for LAPD ran  
10 searches for emails 2018 to 2020 of the 12 LAPD custodians Plaintiffs proposed  
11 using the search terms Plaintiffs proposed. Ursea Decl. ¶23. This resulted in  
12 32GB of raw data, which was subsequently uploaded by the City's e-discovery  
13 vendor. Ursea Decl. ¶32. The uploading of all data was completed on January 6,  
14 2021; after de-duplication, this resulted in 70,623 documents. *Id.*

15 On February 17, 2021, ITA completed collecting emails 2018 to 2020 from  
16 the 27 LASAN custodians and two UHRC custodians Plaintiffs proposed using  
17 Plaintiffs' search terms. Ursea Decl. ¶32. These searches resulted in  
18 approximately 250 GB of raw data. *Id.* This data significantly exceeded the  
19 storage space available under the City's agreement with its e-discovery vendor. *Id.*  
20 To house the data, the City had to negotiate a new agreement with the vendor for  
21 the purchase of additional storage space. Ursea Decl. ¶32.

22 The new agreement between the City and its e-discovery vendor for  
23 additional storage space became effective on March 1, 2021. Ursea Decl. ¶35. On  
24 March 2, 2020, the City sent an email notifying Plaintiffs of the 250GB dataset and  
25 new contract for storage space, and stated that the parties would need to meet and  
26 confer to limit the dataset. Ursea Decl. ¶37. Plaintiffs never responded to the  
27 email and the parties never met and conferred about the dataset. Ursea Decl. ¶38.  
28

1 On March 5, 2021, the City produced 4,650 documents from the LAPD  
2 dataset [CTY020442 - CTY029531], which included emails about specific cleanup  
3 locations, 2020 UHRC Deployment Confirmation CARE and CARE+ sheets,  
4 Daily Activities and Information from UHRC dating back to 2018, metrics related  
5 to homelessness, and descriptions on trainings and policy group meetings. Ursea  
6 Decl. ¶39. On March 18, 2021, Plaintiffs served their portion of the joint  
7 stipulation to compel production of documents that is the subject of the present  
8 motion. Ursea Decl. ¶41. Plaintiffs did not notify the City that they intended to  
9 serve the joint stipulation nor the grounds upon which their motion to compel  
10 would be based. *Id.* Plaintiffs also did not notify the City before serving the joint  
11 stipulation as to any of the Plaintiff-specific or policy-related documents Plaintiffs  
12 allege to be “missing” from the City’s production. *Id.* On March 24, 2021, the  
13 City produced 19,068 documents from the LAPD dataset of 70,623 documents  
14 [CTY029532 - CTY092976]. This production included quarterly reports on  
15 homelessness, emails discussing training and policies/procedures related to  
16 encampment cleanups, complaints regarding homeless encampments and cleanups,  
17 and “Daily UHRC Activities and Information,” which summarize daily activities  
18 related to posted clean-ups, illegal dumping, and HOPE Rapid Response locations.  
19 Many of the produced emails attach HE/ID Confirmation Sheets, which is one of  
20 the categories of documents Plaintiffs contend the City has “withheld.” Ursea  
21 Decl. ¶42.

22 On or about March 30, 2021, the City’s e-discovery vendor completed  
23 uploading the 250GB data. Ursea Decl. ¶44. After deduplication, the search  
24 resulted in approximately 475,000 documents. *Id.*

25 Against this background, Plaintiffs’ accusations of the City’s unreasonable  
26 delay, failures to meet and confer, and “withholding” of documents, plainly have  
27 no merit. And their demand that all such communications be produced, and be  
28

1 produced within 21 days, is not proportional to the needs of the case. Because the  
2 law and analysis as relevance, proportionality, and the contended “waiver” of  
3 privilege are equally applicable here, Defendant incorporates by reference its  
4 arguments as to RFPs 1 and 2.

5 **REQUEST FOR PRODUCTION NO. 26:**

6 All COMMUNICATIONS related to the use of forms used by the CITY or  
7 any of its contractors or subcontractors, including Chrysalis, LAHSA, and Clean  
8 Harbors, that are related to i[sic]that is related to the storage of personal property  
9 taken, seized, or otherwise obtained by the City, including but not limited to any  
10 email instructions or clarifications related to the use of the forms.[notices]

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

12 Defendant incorporates the General Objections as though fully set forth here.  
13 Defendant objects that the Request seeks documents that are not relevant to  
14 Plaintiff El-Bey’s specific claims alleged in the SAC relating to incidents occurring  
15 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
16 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
17 documents that are not relevant to any named-plaintiffs’ claims as alleged in the  
18 SAC. The Court struck Plaintiff KFA’s claims seeking any declaration that the  
19 City unconstitutionally applied LAMC 56.11 or the City’s policies or practices to  
20 KFA’s members. Dkt. No. 65 at 7 (“[T]he Court interprets KFA’s claims in the  
21 SAC as seeking only to obtain a ruling that the City’s policies and practices are  
22 unconstitutional and not that each past application of those policies and practices to  
23 its members was unconstitutional.”). Defendant also objects that the proposed  
24 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
25 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
26 single incident ... to hold the City liable under *Monell*.”). Defendant objects that  
27 the Request is overbroad and burdensome in seeking all communications,  
28

1 including emails, regarding the use of forms by Defendant, LAHSA, Chrysalis, and  
2 Clean Harbors dating back to April 2016, three years before Plaintiff El-Bey's  
3 specific incidents occurred as alleged in the SAC. Defendant also objects to the  
4 Request to the extent the Request seeks information protected from disclosure by  
5 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
6 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
7 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
8 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

9 Defendant further objects that the Request is burdensome and not  
10 proportional to the needs of the case, insofar as the burden of searching for and  
11 producing all communications, including emails, regarding the use of forms by  
12 Defendant, LAHSA, Chrysalis, and Clean Harbors dating back to April 2016  
13 outweighs the benefit of such information for Plaintiff El Bey's claims, and  
14 Defendant's costs or expense in conducting the search and producing documents  
15 greatly exceeds the amount in controversy for Plaintiff's alleged damages.

16 Specifically, in order to search for and obtain documents responsive to the  
17 Request, Defendant would have to investigate the identify of all potential  
18 custodians who may have sent or received an email regarding the use of form for  
19 an encampment cleanup over a four-year period, including personnel from  
20 LASAN, UHRC, LAPD, the City Attorney's Office, and possibly other City  
21 departments. Defendant would then have to conduct search parameters for all  
22 communications over a four-year period involving all identified custodians from  
23 different City departments.

24 Defendant uses an email system known as City Mail that is based on an  
25 implementation of Google Apps Premier Edition and is used by nearly every City  
26 entity, including 40 different departments. Defendant's City Mail system uses the  
27 Google Vault system for archiving emails. Google Vault is a cloud-based data  
28

1 storage system; rather than being stored on locally managed servers, the archived  
2 email data is stored on remote servers that are managed by Google, Inc. and are  
3 only accessible to Defendant's office via the internet. In order to search the email  
4 archives, Defendant's ITA must formulate a search query utilizing the search terms  
5 and restrictions provided by the requester. Depending on the number and  
6 complexity of search terms, the number of email accounts or document custodians,  
7 and the breadth of the search, ITA may need to formulate more than one search  
8 query and scan the stored data multiple times. When the search completes, Google  
9 Vault provides preliminary information regarding the email data gathered by the  
10 search. In order to access the actual emails, however, the entire store of data must  
11 first be exported from the cloud-servers to a different "download" server to which  
12 ITA can connect via the internet and from which we can then download the data.  
13 Depending on the size of the data, the download process the most time-consuming  
14 part of gathering the email data. Even when ITA allocates multiple personnel to  
15 conduct search queries in order to speed up the archived email search and  
16 collection process, ITA is still limited by the speeds at which the data can be  
17 transferred from the download server to Defendant's local data storage devices. As  
18 downloads of batches of data become available, ITA begins the process of  
19 identifying the email addresses that accompany the data against the list of  
20 individuals identified in the data request and thereafter segregates the email stores  
21 of matching individuals. ITA would also identify and screen emails of City  
22 Attorneys begin the process of identifying and screening-out the emails of city  
23 attorneys and may need to conduct subsequent queries to screen out attorneys for  
24 purposes of compiling a list of excluded emails for a privilege log.

25 In addition, Defendant would need to determine whether a City department  
26 utilizes systems-based network servers that may include network folders used to  
27 store or maintain communications within a particular division or department  
28

1 section. In order to retrieve systems-based server folders for review, Defendant  
2 would require a technology professional who has administrator privileges to make  
3 a copy of the drive(s), which can range in size by terabytes of data. In order to  
4 search certain folders on system-based network drives, a technology professional  
5 who has administrator privileges, would use the Microsoft Windows File Explorer  
6 search function, the limited search function available by default on Windows. The  
7 limited search capabilities of the Windows File Explorer search tool may not be  
8 able to accommodate full searches within documents or Boolean searches. The  
9 resulting hits might include systems files, applications, downloads, or media which  
10 may or may not be viewable. After Defendant has conducted searches for  
11 electronically stored information, Defendant would require the use of an e-  
12 discovery software and platform for Defendant's counsel to review, search, and tag  
13 documents and electronically stored information for responsiveness or privilege.

14 Defendant objects that the Request seeks documents that are not reasonably  
15 accessible based on the undue burden and costs associated with searching for and  
16 producing documents and electronically stored information responsive to this  
17 Request for the reasons described above. Without waiving any, and based on these  
18 objections, no documents will be produced in response to this Request.

19 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

20 Defendant incorporates the General Objections as though fully set forth here.  
21 Defendant objects that the Request seeks documents that are not relevant to  
22 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
23 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
24 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
25 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
26 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
27 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard,  
28



1 and on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
2 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
3 at 6th Street and Ardmere and on or around June 11, 2019 at 5th Street and  
4 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
5 March 2019 and a month later by Figueroa Street and 53<sup>rd</sup> Street and 52<sup>nd</sup> Place;  
6 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
7 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
8 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
9 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
10 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
11 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
12 obtain a ruling that the City's policies and practices are unconstitutional and not  
13 that each past application of those policies and practices to its members was  
14 unconstitutional."). Defendant also objects that the proposed discovery is not  
15 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
16 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
17 to hold the City liable under *Monell*"). Defendant objects that the Request is  
18 overbroad and burdensome in seeking all communications, including emails,  
19 regarding the use of forms by Defendant, LAHSA, Chrysalis, and Clean Harbors  
20 dating back to April 2016, three years before Plaintiffs' specific incidents occurred  
21 as alleged in the SAC. Defendant also objects to the Request to the extent the  
22 Request seeks information protected from disclosure by the attorney-client  
23 privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B);  
24 *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v.*  
25 *Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis  
26 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

1 Defendant further objects that the Request is burdensome and not  
2 proportional to the needs of the case, insofar as the burden of searching for and  
3 producing all communications, including emails, regarding the use of forms by  
4 Defendant, LAHSA, Chrysalis, and Clean Harbors dating back to April 2016  
5 outweighs the benefit of such information for Plaintiffs' claims, and Defendant's  
6 costs or expense in conducting the search and producing documents greatly  
7 exceeds the amount in controversy for Plaintiff's alleged damages.

8 Specifically, in order to search for and obtain documents responsive to the  
9 Request, Defendant would have to investigate the identify of all potential  
10 custodians who may have sent or received an email regarding the use of form for  
11 an encampment cleanup over a four-year period, including personnel from  
12 LASAN, UHRC, LAPD, the City Attorney's Office, and possibly other City  
13 departments. Defendant would then have to conduct search parameters for all  
14 communications over a four-year period involving all identified custodians from  
15 different City departments.

16 Defendant uses an email system known as City Mail that is based on an  
17 implementation of Google Apps Premier Edition and is used by nearly every City  
18 entity, including 40 different departments. Defendant's City Mail system uses the  
19 Google Vault system for archiving emails. Google Vault is a cloud-based data  
20 storage system; rather than being stored on locally managed servers, the archived  
21 email data is stored on remote servers that are managed by Google, Inc. and are  
22 only accessible to Defendant's office via the internet. In order to search the email  
23 archives, Defendant's ITA must formulate a search query utilizing the search terms  
24 and restrictions provided by the requester. Depending on the number and  
25 complexity of search terms, the number of email accounts or document custodians,  
26 and the breadth of the search, ITA may need to formulate more than one search  
27 query and scan the stored data multiple times. When the search completes, Google  
28

1 Vault provides preliminary information regarding the email data gathered by the  
2 search. In order to access the actual emails, however, the entire store of data must  
3 first be exported from the cloud-servers to a different “download” server to which  
4 ITA can connect via the internet and from which we can then download the data.  
5 Depending on the size of the data, the download process the most time-consuming  
6 part of gathering the email data. Even when ITA allocates multiple personnel to  
7 conduct search queries in order to speed up the archived email search and  
8 collection process, ITA is still limited by the speeds at which the data can be  
9 transferred from the download server to Defendant’s local data storage devices. As  
10 downloads of batches of data become available, ITA begins the process of  
11 identifying the email addresses that accompany the data against the list of  
12 individuals identified in the data request and thereafter segregates the email stores  
13 of matching individuals. ITA would also identify and screen emails of City  
14 Attorneys begin the process of identifying and screening-out the emails of city  
15 attorneys and may need to conduct subsequent queries to screen out attorneys for  
16 purposes of compiling a list of excluded emails for a privilege log.

17 In addition, Defendant would need to determine whether a City department  
18 utilizes systems-based network servers that may include network folders used to  
19 store or maintain communications within a particular division or department  
20 section. In order to retrieve systems-based server folders for review, Defendant  
21 would require a technology professional who has administrator privileges to make  
22 a copy of the drive(s), which can range in size by terabytes of data. In order to  
23 search certain folders on system-based network drives, a technology professional  
24 who has administrator privileges, would use the Microsoft Windows File Explorer  
25 search function, the limited search function available by default on Windows. The  
26 limited search capabilities of the Windows File Explorer search tool may not be  
27 able to accommodate full searches within documents or Boolean searches. The  
28

1 resulting hits might include systems files, applications, downloads, or media which  
2 may or may not be viewable. After Defendant has conducted searches for  
3 electronically stored information, Defendant would require the use of an e-  
4 discovery software and platform for Defendant's counsel to review, search, and tag  
5 documents and electronically stored information for responsiveness or privilege.

6 Defendant objects that the Request seeks documents that are not reasonably  
7 accessible based on the undue burden and costs associated with searching for and  
8 producing documents and electronically stored information responsive to this  
9 Request for the reasons described above. Subject to and without waiving these  
10 objections, Defendant previously produced certain documents responsive to this  
11 Request, including LASAN interdepartmental memoranda and instructions  
12 regarding the use of forms for storage of property.

13 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

14 **NO. 26:**

15 Similar to RFPs 21-23, RFPs 24-26 seek documents related to the forms  
16 used by the City and its contractors and subcontractors related to the storage of  
17 property seized by the City. RFP 24 seeks the forms itself. RFP 25 seeks  
18 instructions, training materials and policies related to the use of these forms. RFP  
19 26 seeks communications related to the use of these forms, including any email  
20 communications related to the use of these forms. The City has produced  
21 documents responsive to the first two requests, and further agrees to produce  
22 additional documents, if any, in its possession, custody or control. With regards to  
23 this request, the City objects to the production of any documents responsive to this  
24 request. Other than the past production of "interdepartmental memoranda and  
25 instructions regarding the use of forms for the storage of property," which would  
26 be responsive to RFP 25, the City did not agree to produce any records responsive  
27 to this request.  
28

1 Since then, the City agreed to produce emails responsive to Plaintiffs'  
2 request, yet despite the fact that Plaintiffs provided the City with an initial list of  
3 search terms and custodians more than 100 days ago, the City has not provided any  
4 emails responsive to this request, nor has it provided any information regarding the  
5 use of search terms or even answered any of Plaintiffs' repeated requests for a  
6 timeline related to the production of documents, identified a date certain by which  
7 the City will produce emails. The City has refused to meet and confer about any of  
8 the issues it has asserted would cause delay, and as of March 3, 2021, continued to  
9 assert that the production of emails is neither relevant nor proportional to the needs  
10 of the case.

11 At this point, the City's failure to produce responsive documents or respond  
12 to Plaintiffs' repeated requests for a date certain by which the documents will be  
13 produced amounts to a refusal to produce documents, and Plaintiffs seek an order  
14 compelling production of these documents.

15 **a. The Documents are Relevant**

16 The use of forms related to the storage of property is relevant for a number  
17 of reasons. As discussed in detail above, the documents themselves are relevant to  
18 determine how the tracking of property works and to test the accuracy of these  
19 forms. And as with the forms related to Encampment Cleanups, the forms are the  
20 only source of documentation about what the City impounds. The process by  
21 which an entity seizes and stores property, including the way it documents that  
22 property is of critical importance to Plaintiffs' claims under the Fourth  
23 Amendment. *See e.g., United States v. Torres*, 828 F.3d 1113 (2016) (impounding  
24 of property must be done pursuant to set standards and procedures related to  
25 inventory). It is also relevant to the question of due process, since the City argues  
26 that it provides sufficient process when property is seized, and relies on the  
27 documents in support of this claim. Finally, the use of forms is relevant to  
28

1 Plaintiffs' claims under Civil Code 2080.1. The use of those forms is relevant to  
2 the question of whether and to what extent the City has unwritten, but widespread  
3 and longstanding customs and practices related to seizure of property. Therefore,  
4 communications related to these uses of the forms are of course relevant. And  
5 finally, these documents are relevant for impeachment purposes. *Estate of Ernesto*  
6 *Flores*, 2017 WL 3297507, at \*6; *Paulsen*, 168 F.R.D. at 289.

7 **b. The Request is not Overbroad**

8 Plaintiffs' requests going back just two years and eight months. Notably,  
9 because the City has conducted Encampment Cleanups prior to April 2016 when  
10 LAMC 56.11 was amended, there are likely relevant documents that date much  
11 farther back than 2016. In seeking only a limited time frame that was consistent  
12 across all the RFPs, Plaintiffs specifically attempted to balance Defendant's  
13 objections with the needs of this case. And as with the rest of the training requests,  
14 Plaintiffs seek trainings that cover only a discrete topic. Therefore, the requests are  
15 not overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5.

16 **c. Plaintiffs' Narrow Request is Proportional to the Needs of the**  
17 **Case**

18 Because Defendant disagrees that these documents are relevant, let alone  
19 important to the case, Defendant likewise argues that any burden, even the routine  
20 burden of discovery is not proportionate to the needs of the case. But this  
21 objection is without merit: as discussed in detail above, the issues at stake in this  
22 litigation are of constitutional significance; the amount in controversy is largely  
23 irrelevant given that Plaintiffs primarily seek prospective relief to put an end to the  
24 City's unconstitutional practices; and the City of Los Angeles has far more  
25 resources than the seven unhoused individuals whose belongings were seized and  
26 the volunteer organization whose resources go to replacing those belongings. *See*  
27 *supra*, Plaintiffs' Argument re: Request No. 2. The other factors also weigh  
28 heavily in Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).



**d. Parties' Relative Access to Information**

As discussed in detail above, Plaintiffs have little to no information about the storage of property. Notably, although Plaintiffs have sought a third party subpoena from Chrysalis, they have informed Plaintiffs that they do not have any communications with the City of Los Angeles. Therefore, to the extent these communications exist, Plaintiffs have no way of obtaining them from any source other than the City.

**e. Importance of the Discovery in Resolving the Issues**

As discussed above, these documents are central to the main issue in this case: the existence of policies, customs, and practices related to the storage of property. Therefore, communications related to the use of forms is likewise important to that issue, which is at the center of Plaintiffs' *Monell* claims and claims for prospective relief.

**f. Whether the Burden or Expense of the Proposed Discovery Outweighs its Likely Benefit**

Defendant argues that it would be too burdensome to produce documents responsive to this request, but the City lays out what is, in essence nothing more than the routine burden associated with identifying responsive emails: 1) identifying custodians; 2) formulating searches; 3) running those searches; 4) exporting data; and 5) screening for privilege. Accepting this burden analysis would be tantamount to accepting the City's argument that the production of email itself is too burdensome, regardless of how relevant and dispositive the emails are to the case.

There is simply no merit to this argument. There is nothing in Rule 34 that distinguishes responsive emails from any other type of data nor that "requires a requesting party to identify custodians or search terms." *NuVasive, Inc.* 2019 WL 4934477, at \*2. Instead, "Plaintiff must request information, regardless of how or where it is maintained by Defendants, which Defendants must address as required

1 by Rule 34. That is discovery: a party requests information and the burden is on the  
2 producing party to locate and produce it or object legitimately to production.” *Id.*

3 Plaintiffs attempted to address the City’s burden argument by providing  
4 custodians and search terms, but while the City has agreed to search for emails,  
5 Plaintiffs provided an initial list over 100 days ago, and the City has failed to  
6 provide even an estimated time when Plaintiffs will receive the documents, let  
7 alone the documents themselves. The City’s latest email, indicating the City’s  
8 intention to meet and confer about the proportionality of the request at some date  
9 in the future underscores the need for court intervention. While Plaintiffs have  
10 repeatedly offered to meet and confer about the production of emails, Defendant  
11 still refuses to concede that Plaintiffs are entitled to the production of emails, based  
12 on its willful misrepresentation about the scope of this litigation and its untenable  
13 position that the requested documents are not relevant. This is indefensible. The  
14 City is taking an unreasonable amount of time to produce responsive documents,  
15 which is causing significant delay.

16 Plaintiffs’ requests for responsive documents are relevant and proportional  
17 to the needs of the case, and there is no support for the City’s contrary position.  
18 The City cannot “show grounds for failing to provide the requested discovery,”  
19 which the City must do to prevail here. *In re: Citimortgage*, 2012 WL 10450139,  
20 at \*4.

21 **g. The Documents are “Reasonably Accessible” under Rule**  
22 **26(b)(2)(B)**

23 Defendant objects that the documents sought are not “reasonably accessible,  
24 based on the undue burden and costs associated with searching for and producing  
25 documents responsive to this Request. . . .” To the extent the City intends this  
26 objection to refer to the special limitation for ESI under Rule 26(b)(2)(B),  
27 Defendants have not identified, as is its burden, what sources of data are not  
28 “readily accessible” so the parties can address the burden. *Id.* at 2. The City’s

1 objection spelling out the process for obtaining the documents makes clear that the  
2 relevant records are stored in active servers (and paper copy). No restoration of  
3 any kind is necessary. The only step the City identifies as burdensome is  
4 downloading the data from the cloud, but “[m]oving active and easily accessible  
5 ESI from one storage medium to another does not, by itself, render it inaccessible.”  
6 *Al Otra Lado*, 328 F.R.D. at 421. *See also Sung Gon Kang*, 2020 WL 1689708, at  
7 \*5. And it is not a basis for such an interminable delay in the production of these  
8 documents.

9 **h. There is No Merit to the City’s Other Objections**

10 **i. Claims of Privilege**

11 The City objects insofar as there are documents protected by attorney-  
12 privilege and work product. As discussed above, despite numerous requests  
13 Defendants have not produced a privilege log or any other details to substantiate its  
14 boilerplate objection. Defendant has therefore waived this objection. *Burlington*  
15 *Northern & Santa Fe Ry. Co.*, 408 F.3d. at 1149. *See also DeSilva*, 2020 WL  
16 5947827, at \*2.

17 **i. Other boilerplate general objections**

18 In addition to the specific objections to relevance and proportionality, the  
19 City provides three pages of general boilerplate objections. The City simply  
20 incorporates these objections by reference into each of the requests for production,  
21 without providing any basis for the specific objection or even an assessment of  
22 whether the objection specifically applies to the request. To the extent any of them  
23 even applied to this RFP, Defendant therefore waived these objections. *See,*  
24 *e.g., Bosley*, 2016 WL 1704159, at \*5, n. 3.

25 **j. Plaintiffs’ Request for Relief**

26 Plaintiffs are entitled to an order compelling the City to produce  
27 all documents responsive to RFP No. 26 within 21 days.  
28

1           **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
2           **NO. 26:**

3           RFP 26 asks for “All COMMUNICATIONS related to the use of forms used  
4 by the CITY or any of its contractors or subcontractors, including Chrysalis,  
5 LAHSA, and Clean Harbors, that are related to i[sic]that is related to the storage of  
6 personal property taken, seized, or otherwise obtained by the City, including but  
7 not limited to any email instructions or clarifications related to the use of the forms  
8 [2016-present].” (Emphasis added).

9           This request is virtually identical to RFP 23 except that it is far broader in  
10 that it does not even tie the forms to encampment cleanups or 56.11 (much less to  
11 Plaintiffs’ incidents) but instead asks for communications related to the use of form  
12 related to storage of property “taken, seized, *or otherwise obtained.*”

13           Plaintiffs advance five relevance theories: (1) “the documents themselves are  
14 relevant to determine how the tracking of property works and to test the accuracy  
15 of these forms,” (2) “the process by which an entity seizes and stores property,  
16 including the way it documents that property is of critical importance to Plaintiffs’  
17 claims under the Fourth Amendment,” and (3) “[i]t is also relevant to the question  
18 of due process, since the City argues that it provides sufficient process when  
19 property is seized, and relies on the documents in support of this claim”; and (4)  
20 the use of those forms is relevant to the question of whether and to what extent the  
21 City has unwritten, but widespread and longstanding customs and practices related  
22 to seizure of property,” and (5) “finally, these documents are relevant for  
23 impeachment purposes.”

24           None of these arguments establishes the relevance of communications about  
25 forms related to the storage of any and all property the City removes under any and  
26 all circumstances dating back to 2016. As with RFP 26, the arguments are  
27 particularly weak given that Plaintiffs admit that the City has produced the actual  
28

1 forms and trainings about them, and has further agreed to produce responsive  
2 emails it locates in reviewing the agreed upon universe of emails it has collected.  
3 And for the reasons previously discussed, *Monell* cannot serve as the relevance  
4 theory because the facts related to *Monell* are not in dispute and in fact, the City  
5 has offered to stipulate to *Monell* liability. *See Gonzalez v. City of Schenectady*,  
6 No. 1:09-CV-1434, 2011 U.S. Dist. LEXIS 137290, at \*13 (N.D.N.Y. Nov. 30,  
7 2011) (“additional discovery related to strip searches is unnecessary as it is  
8 undisputed that the search was conducted pursuant to the City's written policy,  
9 which had been in effect since 1999”); Ursea Decl. ¶¶2-4; Ex. 1, 2.

10 Even if the communications had some minimal probative value, the request  
11 for all such communications, from 2016 to present, is not proportional to the needs  
12 of this case. And as described above there is no merit to Plaintiffs’ contention that  
13 the City has unreasonably delayed producing emails nor that the City has waived  
14 privilege. The City incorporates by reference its responses to RFPs 1, 2 16, and  
15 23, which apply with equal force here.

16  
17 **REQUEST FOR PRODUCTION NO. 29:**

18 All COMMUNICATIONS related to the use of notices used by the CITY or  
19 any of its contractors or subcontractors, including Chrysalis, LAHSA, and Clean  
20 Harbors, that are related to ENCAMPMENT CLEANUPS, including but not  
21 limited to any email instructions or clarifications related to the use of the notices.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

23 Defendant incorporates the General Objections as though fully set forth here.  
24 Defendant objects that the Request seeks documents that are not relevant to  
25 Plaintiff El-Bey’s specific claims alleged in the SAC relating claims alleged in the  
26 SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
27 single incident ... to hold the City liable under *Monell*.”). Defendant objects that the  
28

1 Request is overbroad and burdensome in seeking all communications, including  
2 emails, regarding the use of forms by Defendant, LAHSA, Chrysalis, and Clean  
3 Harbors dating back to April 2016, three years before Plaintiffs 'specific incidents  
4 occurred as alleged in the SAC. Defendant also objects to the Request to the  
5 extent the Request seeks information protected from disclosure by the attorney-  
6 client privilege and or attorney work product doctrines. F.R.Civ.P. Rule  
7 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal.  
8 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013  
9 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

10 Defendant further objects that the Request is burdensome and not  
11 proportional to the needs of the case, insofar as the burden of searching for and  
12 producing all communications, including emails, regarding the use of forms by  
13 Defendant, LAHSA, Chrysalis, and Clean Harbors dating back to April 2016  
14 outweighs the benefit of such information for Plaintiffs' claims, and Defendant's  
15 costs or expense in conducting the search and producing documents greatly  
16 exceeds the amount in controversy for Plaintiff's alleged damages.

17 Specifically, in order to search for and obtain documents responsive to the  
18 Request, Defendant would have to investigate the identify of all potential  
19 custodians who may have sent or received an email regarding the use of form for  
20 an encampment cleanup over a four-year period, including personnel from  
21 LASAN, UHRC, LAPD, the City Attorney's Office, and possibly other City  
22 departments. Defendant would then have to conduct search parameters for all  
23 communications over a four-year period involving all identified custodians from  
24 different City departments.

25 Defendant uses an email system known as City Mail that is based on an  
26 implementation of Google Apps Premier Edition and is used by nearly every City  
27 entity, including 40 different departments. Defendant's City Mail system uses the  
28



1 Google Vault system for archiving emails. Google Vault is a cloud-based data  
2 storage system; rather to incidents occurring on or around January 10, 2019 at 6th  
3 Street and Alexandria and on or around June 4, 2019 at Oakwood and Western.  
4 Defendant further objects that the Request seeks documents that are not relevant to  
5 any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff  
6 KFA's claims seeking any declaration that the City unconstitutionally applied  
7 LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at  
8 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a  
9 ruling that the City's policies and practices are unconstitutional and not that each  
10 past application of those policies and practices to its members was  
11 unconstitutional."). Defendant also objects that the proposed discovery is not  
12 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
13 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
14 to hold the City liable under *Monell*"). Defendant objects that the Request is  
15 overbroad and burdensome in seeking all communications, including emails,  
16 regarding the use of notices by Defendant, LAHSA, Chrysalis, and Clean Harbors  
17 dating back to April 2016, three years before Plaintiff El-Bey's specific incidents  
18 occurred as alleged in the SAC. Defendant also objects to the Request to the  
19 extent the Request seeks information protected from disclosure by the attorney-  
20 client privilege and or attorney work product doctrines. F.R.Civ.P. Rule  
21 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal.  
22 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013  
23 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

24 Defendant further objects that the Request is burdensome and not  
25 proportional to the needs of the case, insofar as the burden of searching for and  
26 producing all communications, including emails, regarding the use of notices by  
27 Defendant, LAHSA, Chrysalis, and Clean Harbors dating back to April 2016  
28

1 outweighs the benefit of such information for Plaintiff El Bey's claims, and  
2 Defendant's costs or expense in conducting the search and producing documents  
3 greatly exceeds the amount in controversy for Plaintiff's alleged damages.

4 Specifically, in order to search for and obtain documents responsive to the  
5 Request, Defendant would have to investigate the identify of all potential  
6 custodians who may have sent or received an email regarding the use of notice for  
7 an encampment cleanup over a four-year period, including personnel from  
8 LASAN, UHRC, LAPD, the City Attorney's Office, and possibly other City  
9 departments. Defendant would then have to conduct search parameters for all  
10 communications over a four-year period involving all identified custodians from  
11 different City departments.

12 Defendant uses an email system known as City Mail that is based on an  
13 implementation of Google Apps Premier Edition and is used by nearly every City  
14 entity, including 40 different departments. Defendant's City Mail system uses the  
15 Google Vault system for archiving emails. Google Vault is a cloud-based data  
16 storage system; rather than being stored on locally managed servers, the archived  
17 email data is stored on remote servers that are managed by Google, Inc. and are  
18 only accessible to Defendant's office via the internet. In order to search the email  
19 archives, Defendant's ITA must formulate a search query utilizing the search terms  
20 and restrictions provided by the requester. Depending on the number and  
21 complexity of search terms, the number of email accounts or document custodians,  
22 and the breadth of the search, ITA may need to formulate more than one search  
23 query and scan the stored data multiple times. When the search completes, Google  
24 Vault provides preliminary information regarding the email data gathered by the  
25 search. In order to access the actual emails, however, the entire store of data must  
26 first be exported from the cloud-servers to a different "download" server to which  
27 ITA can connect via the internet and from which we can then download the data.  
28

1 Depending on the size of the data, the download process the most time-consuming  
2 part of gathering the email data. Even when ITA allocates multiple personnel to  
3 conduct search queries in order to speed up the archived email search and  
4 collection process, ITA is still limited by the speeds at which the data can be  
5 transferred from the download server to Defendant's local data storage devices. As  
6 downloads of batches of data become available, ITA begins the process of  
7 identifying the email addresses that accompany the data against the list of  
8 individuals identified in the data request and thereafter segregates the email stores  
9 of matching individuals. ITA would also identify and screen emails of City  
10 Attorneys begin the process of identifying and screening-out the emails of city  
11 attorneys and may need to conduct subsequent queries to screen out attorneys for  
12 purposes of compiling a list of excluded emails for a privilege log.

13 In addition, Defendant would need to determine whether a City department  
14 utilizes systems-based network servers that may include network folders used to  
15 store or maintain communications regarding the use of notices within a particular  
16 division or department section. In order to retrieve systems-based server folders  
17 for review, Defendant would require a technology professional who has  
18 administrator privileges to make a copy of the drive(s), which can range in size by  
19 terabytes of data. In order to search certain folders on system-based network  
20 drives, a technology professional who has administrator privileges, would use the  
21 Microsoft Windows File Explorer search function, the limited search function  
22 available by default on Windows. The limited search capabilities of the Windows  
23 File Explorer search tool may not be able to accommodate full searches within  
24 documents or Boolean searches. The resulting hits might include systems files,  
25 applications, downloads, or media which may or may not be viewable. After  
26 Defendant has conducted searches for electronically stored information, Defendant  
27 would require the use of an e-discovery software and platform for Defendant's  
28

1 counsel to review, search, and tag documents and electronically stored information  
2 for responsiveness or privilege.

3 Defendant objects that the Request seeks documents that are not reasonably  
4 accessible based on the undue burden and costs associated with searching for and  
5 producing documents and electronically stored information responsive to this  
6 Request for the reasons described above. Without waiving any, and based on these  
7 objections, no documents will be produced in response to this Request.

8 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

9 Defendant incorporates the General Objections as though fully set forth here.  
10 Defendant objects that the Request seeks documents that are not relevant to  
11 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
12 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
13 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
14 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
15 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
16 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
17 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
18 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
19 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
20 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
21 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
22 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
23 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
24 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
25 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
26 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
27 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
28

1 obtain a ruling that the City's policies and practices are unconstitutional and not  
2 that each past application of those policies and practices to its members was  
3 unconstitutional.''). Defendant also objects that the proposed discovery is not  
4 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
5 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
6 to hold the City liable under *Monell*.'). Defendant objects that the Request is  
7 overbroad and burdensome in seeking all communications, including emails,  
8 regarding the use of notices by Defendant, LAHSA, Chrysalis, and Clean Harbors  
9 dating back to April 2016, three years before Plaintiffs' specific incidents occurred  
10 as alleged in the SAC. Defendant also objects to the Request to the extent the  
11 Request seeks information protected from disclosure by the attorney-client  
12 privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B);  
13 *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v.*  
14 *Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis  
15 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013). Defendant further objects that the  
16 Request is burdensome and not proportional to the needs of the case, insofar as the  
17 burden of searching for and producing all communications, including emails,  
18 regarding the use of notices by Defendant, LAHSA, Chrysalis, and Clean Harbors  
19 dating back to April 2016 outweighs the benefit of such information for Plaintiffs'  
20 claims, and Defendant's costs or expense in conducting the search and producing  
21 documents greatly exceeds the amount in controversy for Plaintiffs' alleged  
22 damages.

23 Specifically, in order to search for and obtain documents responsive to the  
24 Request, Defendant would have to investigate the identify of all potential  
25 custodians who may have sent or received an email regarding the use of notice for  
26 an encampment cleanup over a four-year period, including personnel from  
27 LASAN, UHRC, LAPD, the City Attorney's Office, and possibly other City  
28

1 departments. Defendant would then have to conduct search parameters for all  
2 communications over a four-year period involving all identified custodians from  
3 different City departments.

4 Defendant uses an email system known as City Mail that is based on an  
5 implementation of Google Apps Premier Edition and is used by nearly every City  
6 entity, including 40 different departments. Defendant's City Mail system uses the  
7 Google Vault system for archiving emails. Google Vault is a cloud-based data  
8 storage system; rather than being stored on locally managed servers, the archived  
9 email data is stored on remote servers that are managed by Google, Inc. and are  
10 only accessible to Defendant's office via the internet. In order to search the email  
11 archives, Defendant's ITA must formulate a search query utilizing the search terms  
12 and restrictions provided by the requester. Depending on the number and  
13 complexity of search terms, the number of email accounts or document custodians,  
14 and the breadth of the search, ITA may need to formulate more than one search  
15 query and scan the stored data multiple times. When the search completes, Google  
16 Vault provides preliminary information regarding the email data gathered by the  
17 search. In order to access the actual emails, however, the entire store of data must  
18 first be exported from the cloud-servers to a different "download" server to which  
19 ITA can connect via the internet and from which we can then download the data.  
20 Depending on the size of the data, the download process the most time-consuming  
21 part of gathering the email data. Even when ITA allocates multiple personnel to  
22 conduct search queries in order to speed up the archived email search and  
23 collection process, ITA is still limited by the speeds at which the data can be  
24 transferred from the download server to Defendant's local data storage devices. As  
25 downloads of batches of data become available, ITA begins the process of  
26 identifying the email addresses that accompany the data against the list of  
27 individuals identified in the data request and thereafter segregates the email stores  
28



1 of matching individuals. ITA would also identify and screen emails of City  
2 Attorneys begin the process of identifying and screening-out the emails of city  
3 attorneys and may need to conduct subsequent queries to screen out attorneys for  
4 purposes of compiling a list of excluded emails for a privilege log.

5 In addition, Defendant would need to determine whether a City department  
6 utilizes systems-based network servers that may include network folders used to  
7 store or maintain communications regarding the use of notices within a particular  
8 division or department section. In order to retrieve systems-based server folders  
9 for review, Defendant would require a technology professional who has  
10 administrator privileges to make a copy of the drive(s), which can range in size by  
11 terabytes of data. In order to search certain folders on system-based network  
12 drives, a technology professional who has administrator privileges, would use the  
13 Microsoft Windows File Explorer search function, the limited search function  
14 available by default on Windows. The limited search capabilities of the Windows  
15 File Explorer search tool may not be able to accommodate full searches within  
16 documents or Boolean searches. The resulting hits might include systems files,  
17 applications, downloads, or media which may or may not be viewable. After  
18 Defendant has conducted searches for electronically stored information, Defendant  
19 would require the use of an e-discovery software and platform for Defendant's  
20 counsel to review, search, and tag documents and electronically stored information  
21 for responsiveness or privilege.

22 Defendant objects that the Request seeks documents that are not reasonably  
23 accessible based on the undue burden and costs associated with searching for and  
24 producing documents and electronically stored information responsive to this  
25 Request for the reasons described above. Subject to and without waiving these  
26 objections, Defendant previously produced certain documents responsive to this  
27  
28

1 Request, including LASAN interdepartmental memoranda and instructions  
2 regarding the use of notices for encampment cleanups.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 29:**

5 RFPs 27-29 seek documents related to the notices used by the City and its  
6 contractors and subcontractors. RFP 27 seeks the notices themselves. RFP 28  
7 seeks instructions, training materials and policies related to the use of these forms.  
8 RFP 29 seeks communications related to the use of these notices, including any  
9 email communications related to the use of these notices. The City has produced  
10 documents responsive to the first two requests, and further agrees to produce  
11 additional documents, if any, in its possession, custody or control.

12 With regards to this request, the City objects to the production of any  
13 documents responsive to this request. Other than the past production of  
14 "interdepartmental memoranda and instructions regarding the use of notices for  
15 encampment cleanups," which would be responsive to RFP 28, the City did not  
16 agree to produce any records responsive to this request. Since then, the City  
17 agreed to produce emails responsive to Plaintiffs' request, yet despite the fact that  
18 Plaintiffs provided the City with an initial list of search terms and custodians more  
19 than 100 days ago, the City has not provided any emails responsive to this request,  
20 nor has it provided any information regarding the use of search terms or even  
21 answered any of Plaintiffs' repeated requests for a timeline related to the  
22 production of documents, or identified a date certain by which the City will  
23 produce emails. The City has refused to meet and confer about any of the issues it  
24 has asserted would cause delay, and as of March 3, 2021, continued to assert that  
25 the production of emails is neither relevant nor proportional to the needs of the  
26 case.

1 At this point, the City's failure to produce responsive documents or respond  
2 to Plaintiffs' repeated requests for a date certain by which the documents will be  
3 produced amounts to a refusal to produce documents, and Plaintiffs seek an order  
4 compelling production of these documents.

5 **a. The Documents are Relevant**

6 The use of notices related to Encampment Cleanups is one of the most  
7 central issues in this case, both regards to Plaintiffs' claims under the Fourteenth  
8 Amendment Due Process clause, and Defendant's defense against those claims.  
9 Specifically, Plaintiffs claim that the City violates due process by failing to provide  
10 sufficient notice of cleanups. The City on the other hand argues that its current  
11 notices are sufficient. As such, communications about the use of the notices is  
12 unquestionably relevant to the parties' claims and defenses. For example, a  
13 conversation about whether the City's notices are sufficient to let people know  
14 about the cleanups or whether the City is going to respond to public claims that  
15 cleanups are happening without notice would unquestionably be relevant to  
16 Plaintiffs' claims, including their *Monell* claims and claims that the City has a  
17 custom, practice or policy that violates Due Process. The City's objection, which  
18 it copies from every single one of its other responses, is patently absurd and wholly  
19 without merit.

20 **b. The Request is not Overbroad**

21 Plaintiffs' requests going back just two years and eight months. Notably,  
22 because the City has conducted Encampment Cleanups prior to April 2016 when  
23 LAMC 56.11 was amended, there are likely relevant documents that date much  
24 farther back than 2016. In seeking only a limited time frame that was consistent  
25 across all the RFPs, Plaintiffs specifically attempted to balance Defendant's  
26 objections with the needs of this case. And as with the rest of the requests,  
27  
28

1 Plaintiffs seek communications that cover only a discrete topic. Therefore, the  
2 requests are not overbroad. *See Fulfillium*, 2018 WL 6118433, at \*5.

3 **c. Plaintiffs' Narrow Request is Proportional to the Needs of the**  
4 **Case**

5 Because Defendant disagrees that these documents are relevant, let alone  
6 important to the case, Defendant likewise argues that any burden, even the routine  
7 burden of discovery is not proportionate to the needs of the case. But this  
8 objection is without merit. As discussed in detail above, the issues at stake in this  
9 litigation are of constitutional significance, the amount in controversy is largely  
10 irrelevant given that Plaintiffs primarily seek prospective relief to put an end to the  
11 City's unconstitutional practices, and the City of Los Angeles has far more  
12 resources than the seven unhoused individuals whose belongings were seized and  
13 the volunteer organization whose resources go to replacing those belongings, and  
14 Plaintiffs have no access to this information outside of discovery. *See supra*,  
15 Plaintiffs' Argument re: Request No. 2. The other factors also weigh heavily in  
16 Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).

17 **d. Importance of the Discovery in Resolving the Issue**

18 As discussed above, the use of notices is one of the most central issues in  
19 this case. Communications about the use of those notices may evidence the  
20 existence of customs, policies and practices related to the use of those notices.  
21 Therefore, discovery of this topic is incredibly important.

22 **e. Whether the Burden or Expense of the Proposed Discovery**  
23 **Outweighs its Likely Benefit**

24 Defendant argues that it would be too burdensome to produce documents  
25 responsive to this request, but the City lays out what is, in essence nothing more  
26 than the routine burden associated with identifying responsive emails: 1)  
27 identifying custodians; 2) formulating searches; 3) running those searches; 4)  
28 exporting data; and 5) screening for privilege. Accepting this burden analysis

1 would be tantamount to accepting the City's argument that the production of email  
2 itself is too burdensome, regardless of how relevant and dispositive the emails are  
3 to the case.

4 There is simply no merit to this argument. There is nothing in Rule 34 that  
5 distinguishes responsive emails from any other type of data nor that "requires a  
6 requesting party to identify custodians or search terms." *NuVasive, Inc.* 2019 WL  
7 4934477, at \*2. Instead, "Plaintiff must request information, regardless of how or  
8 where it is maintained by Defendants, which Defendants must address as required  
9 by Rule 34. That is discovery: a party requests information and the burden is on the  
10 producing party to locate and produce it or object legitimately to production." *Id.*

11 Plaintiffs attempted to address the City's burden argument by providing  
12 custodians and search terms, but while the City has agreed to search for emails,  
13 Plaintiffs provided an initial list over 100 days ago, and the City has failed to  
14 provide even an estimated time when Plaintiffs will receive the documents, let  
15 alone the documents themselves. The City's latest email, indicating the City's  
16 intention to meet and confer about the proportionality of the request at some date  
17 in the future underscores the need for court intervention. While Plaintiffs have  
18 repeatedly offered to meet and confer about the production of emails, Defendant  
19 still refuses to concede that Plaintiffs are entitled to the production of emails, based  
20 on its willful misrepresentation about the scope of this litigation and its untenable  
21 position that the requested documents are not relevant. This is indefensible. The  
22 City is taking an unreasonable amount of time to produce responsive documents,  
23 which is causing significant delay.

24 Plaintiffs' requests for responsive documents are relevant and proportional  
25 to the needs of the case, and there is no support for the City's contrary position.  
26 The City cannot "show grounds for failing to provide the requested discovery,"  
27  
28

1 which the City must do to prevail here. *In re: Citimortgage*, 2012 WL 10450139,  
2 at \*4.

3 **f. The Documents are “Reasonably Accessible” under Rule**  
4 **26(b)(2)(B)**

5 Defendant objects that the documents sought are not “reasonably accessible,  
6 based on the undue burden and costs associated with searching for and producing  
7 documents responsive to this Request. . . .” To the extent the City intends this  
8 objection to refer to the special limitation for ESI under Rule 26(b)(2)(B),  
9 Defendants have not identified, as is its burden, what sources of data are not  
10 “readily accessible” so the parties can address the burden. *Id.* at 2. The City’s  
11 objection spelling out the process for obtaining the documents makes clear that the  
12 relevant records are stored in active servers (and paper copy). No restoration of  
13 any kind is necessary. The only step the City identifies as burdensome is  
14 downloading the data from the cloud, but “[m]oving active and easily accessible  
15 ESI from one storage medium to another does not, by itself, render it inaccessible.”  
16 *Al Otra Lado*, 328 F.R.D. at 421. *See also Sung Gon Kang*, 2020 WL 1689708, at  
17 \*5. And it is not a basis for such an interminable delay in the production of these  
18 documents.

19 **g. There is No Merit to the City’s Other Objections**

20 **i. Claims of Privilege**

21 The City objects insofar as there are documents protected by attorney-  
22 privilege and work product. As discussed above, despite numerous requests  
23 Defendants have not produced a privilege log or any other details to substantiate its  
24 boilerplate objection. Defendant has therefore waived this objection. *Burlington*  
25 *Northern & Santa Fe Ry. Co.*, 408 F.3d. at 1149. *See also DeSilva*, 2020 WL  
26 5947827, at \*2.  
27  
28



**ii. Other boilerplate general objections**

In addition to the specific objections to relevance and proportionality, the City provides three pages of general boilerplate objections. The City simply incorporates these objections by reference into each of the requests for production, without providing any basis for the specific objection or even an assessment of whether the objection specifically applies to the request. To the extent any of them even applied to this RFP, Defendant therefore waived these objections. *See, e.g., Bosley*, 2016 WL 1704159, at \*5, n. 3.

**h. Plaintiffs' Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 29 within 21 days.

**DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 29:**

RFP 29 asks for "All COMMUNICATIONS related to the use of notices used by the CITY or any of its contractors or subcontractors, including Chrysalis, LAHSA, and Clean Harbors, that are related to ENCAMPMENT CLEANUPS, including but not limited to any email instructions or clarifications related to the use of the notices [2016-present]." (Emphasis added).

The only relevance theory Plaintiffs advance as to RFP 29 is that communications about notices is relevant to *Monell*. For all the reasons previously discussed, that is not a valid relevance theory. Even if the communications had some minimal probative value, the request for all such communications, from 2016 to present, is not proportional to the needs of this case. RFP 29 suffers from the same flaws as RFPs 23 and 26. Just as with those RFPs, Plaintiffs admit that the City has produced the notices themselves, along with training documents, and has agreed to produce agreed-upon emails. Plaintiffs have not established a need, much less a propotional need, for additional documents. And as described above there is no merit to Plaintiffs' contention that the City has unreasonably delayed

1 producing emails nor that the City has waived privilege. The City incorporates by  
2 reference its responses to RFPs 1, 2, 16, 23, and 26, which apply with equal force  
3 here.

4 **REQUEST FOR PRODUCTION NO. 30:**

5 All records documenting the posting of notices for ENCAMPMENT  
6 CLEANUPS, including but not limited to “survey/postings” records created by  
7 LA Sanitation.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

9 Defendant incorporates the General Objections as though fully set forth here.  
10 Defendant objects that the Request seeks documents that are not relevant to  
11 Plaintiff El-Bey’s specific claims alleged in the SAC relating to incidents occurring  
12 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
13 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
14 documents that are not relevant to any named-plaintiffs’ claims as alleged in the  
15 SAC. The Court struck Plaintiff KFA’s claims seeking any declaration that the  
16 City unconstitutionally applied LAMC 56.11 or the City’s policies or practices to  
17 KFA’s members. Dkt. No. 65 at 7 (“[T]he Court interprets KFA’s claims in the  
18 SAC as seeking only to obtain a ruling that the City’s policies and practices are  
19 unconstitutional and not that each past application of those policies and practices to  
20 its members was unconstitutional.”). Defendant also objects that the proposed  
21 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
22 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
23 single incident ... to hold the City liable under *Monell*.”). Defendant objects that  
24 the Request is overbroad and burdensome in seeking all records documenting  
25 encampment cleanups dating back over four years to April 2016 that are unrelated,  
26 and not relevant, to Plaintiff El Bey’s specific claims alleged in the SAC.  
27 Defendant also objects to the Request to the extent the Request seeks information  
28

1 protected from disclosure by the attorney-client privilege and or attorney work  
2 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
3 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
4 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
5 Sep. 9, 2013).

6 Defendant further objects that the Request is burdensome and not  
7 proportional to the needs of the case, insofar as the burden of searching for and  
8 producing all records documenting posting of notices for encampment cleanups  
9 outweighs the benefit of such information for Plaintiff El Bey's claims, and  
10 Defendant's costs or expense in conducting the search and producing documents  
11 greatly exceeds the amount in controversy for Plaintiff's alleged damages.

12 Specifically, in order to search for and obtain documents responsive to the  
13 Request, Defendant would need to search the LASAN's WPIMS database to  
14 identify all incidents constituting "encampment cleanups" as defined in the  
15 Request. Defendant identified 41,734 incidents within WPIMS constituting  
16 "encampment cleanups" as defined in the Request for the period from April 1,  
17 2016 to July 31, 2020. Defendant would have to conduct a query and search  
18 parameters within WPIMS to generate a report identifying all 41,734 incidents by  
19 the address listed for the encampment cleanup, date, incident/case number, and  
20 form of encampment cleanup. Defendant identified 22,089 incidents involving  
21 posted cleanups. For each identified incident number, Defendant would need to  
22 generate reports within WPIMS for the encampment cleanup, and collect  
23 associated posting surveys for each cleanup. Defendant would then have to  
24 conduct additional searches for encampment cleanup pictures and media files by  
25 incident number that are not stored on WPIMS. The number of pictures associated  
26 with an encampment cleanup could exceed over 700 pictures for one incident  
27 report. Defendant would also have to manually search for, collect, and assemble  
28

1 related documents by incident number, including cleanup authorizations for each  
2 incident within LASAN's AMS.

3 Defendant would also need to search for potentially responsive documents  
4 or information for encampment cleanups as defined in the Request that may be  
5 maintained within LASAN's Customer Service Group's MyLA database for  
6 service requests. Defendant would have to conduct a search parameter for service  
7 requests relating to encampment cleanups as defined in the Request for the period  
8 from April 1, 2016 to the present and generate a report identifying service requests  
9 for defined encampment cleanups by location address and date range. Defendant  
10 would then need an analyst to manually review MyLA data and cross-reference  
11 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
12 query to determine potentially corresponding service requests for identified  
13 encampment cleanups involving posted notices. Defendant would then have to  
14 prepare a separate report containing identified service requests within the MyLA  
15 database corresponding to identified WPIMS incident/case numbers for  
16 encampment cleanups involving posted notices. In addition, for cleanups occurring  
17 after October 2019, Defendant would have to conduct searches for potentially  
18 responsive documents within the City's daily schedules issued for CARE and  
19 CARE+ operations by reviewing schedules and cross referencing the schedules  
20 with identified incident/case numbers, dates, and locations. Defendant objects that  
21 the Request seeks documents that are not reasonably accessible based on the undue  
22 burden and costs associated with searching for and producing documents  
23 responsive to this Request for the reasons described above. Without waiving any,  
24 and based on these, objections, no documents will be produced in response to this  
25 Request.

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27  
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**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request seeks documents that are not relevant to Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents occurring on or around March 21, 2019 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant objects that the Request is overbroad and burdensome in seeking all records documenting encampment

1 cleanups dating back over four years to April 2016 that are unrelated, and not  
2 relevant, to Plaintiffs' specific claims alleged in the SAC. Defendant also objects  
3 to the Request to the extent the Request seeks information protected from  
4 disclosure by the attorney-client privilege and or attorney work product doctrines.  
5 F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503,  
6 \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181  
7 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

8 Defendant further objects that the Request is burdensome and not  
9 proportional to the needs of the case, insofar as the burden of searching for and  
10 producing all records documenting posting of notices for encampment cleanups  
11 outweighs the benefit of such information for Plaintiffs' claims, and Defendant's  
12 costs or expense in conducting the search and producing documents greatly  
13 exceeds the amount in controversy for Plaintiff's alleged damages.

14 Specifically, in order to search for and obtain documents responsive to the  
15 Request, Defendant would need to search the LASAN's WPIMS database to  
16 identify all incidents constituting "encampment cleanups" as defined in the  
17 Request. Defendant identified 41,734 incidents within WPIMS constituting  
18 "encampment cleanups" as defined in the Request for the period from April 1,  
19 2016 to July 31, 2020. Defendant would have to conduct a query and search  
20 parameters within WPIMS to generate a report identifying all 41,734 incidents by  
21 the address listed for the encampment cleanup, date, incident/case number, and  
22 form of encampment cleanup. Defendant identified 22,089 incidents involving  
23 posted cleanups. For each identified incident number, Defendant would need to  
24 generate reports within WPIMS for the encampment cleanup, and collect  
25 associated posting surveys for each cleanup. Defendant would then have to  
26 conduct additional searches for encampment cleanup pictures and media files by  
27 incident number that are not stored on WPIMS. The number of pictures associated  
28



1 with an encampment cleanup could exceed over 700 pictures for one incident  
2 report. Defendant would also have to manually search for, collect, and assemble  
3 related documents by incident number, including cleanup authorizations for each  
4 incident within LASAN's AMS.

5 Defendant would also need to search for potentially responsive documents  
6 or information for encampment cleanups as defined in the Request that may be  
7 maintained within LASAN's Customer Service Group's MyLA database for  
8 service requests. Defendant would have to conduct a search parameter for service  
9 requests relating to encampment cleanups as defined in the Request for the period  
10 from April 1, 2016 to the present and generate a report identifying service requests  
11 for defined encampment cleanups by location address and date range. Defendant  
12 would then need an analyst to manually review MyLA data and cross-reference  
13 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
14 query to determine potentially corresponding service requests for identified  
15 encampment cleanups involving posted notices. Defendant would then have to  
16 prepare a separate report containing identified service requests within the MyLA  
17 database corresponding to identified WPIMS incident/case numbers for  
18 encampment cleanups involving posted notices. In addition, for cleanups occurring  
19 after October 2019, Defendant would have to conduct searches for potentially  
20 responsive documents within the City's daily schedules issued for CARE and  
21 CARE+ operations by reviewing schedules and cross referencing the schedules  
22 with identified incident/case numbers, dates, and locations. Defendant objects that  
23 the Request seeks documents that are not reasonably accessible based on the undue  
24 burden and costs associated with searching for and producing documents  
25 responsive to this Request for the reasons described above. Without waiving any,  
26 and based on these, objections, Defendant responds that Defendant produced  
27 LASAN posting surveys responsive to this Request for the individual Plaintiffs'  
28

1 specific alleged incidents at CTY000001-2677, but Defendant objects to further  
2 production of documents responsive to this Request.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

4 **NO. 30:**

5 Plaintiffs seek records that document the posting of notices related to  
6 encampment cleanups, including primarily “posting surveys,” which are created by  
7 LA Sanitation to document the City’s initial review of a homeless encampment  
8 prior to conducting a cleanup. *See* Myers Decl., Exh. AU (including an exemplar  
9 of a posting survey). Plaintiffs originally requested all posting surveys going back  
10 to April 2016. The City has objected primarily based on purported burden and  
11 proportionality. However, the three pages of objections are duplicative of other  
12 objections and do not specifically address any burden associated with producing  
13 the “postings/surveys” themselves. In an attempt to address the City’s concerns,  
14 Plaintiffs revised its request to seek only those documents going back to January 1,  
15 2018 and offered to meet and confer about ways to mitigate the burden asserted by  
16 the City. *See* Myers Decl. ¶ 34. The City refused to provide any information about  
17 how these specific documents are stored or to otherwise discuss ways to mitigate  
18 its concerns, and instead, has simply refused to produce any additional posting  
19 surveys other than the posting notices related to the Specific Incidents.

20 **a. Relevance of the Posting Surveys**

21 The information contained in the “posting/survey” is directly relevant to the  
22 core issues in Plaintiffs’ claims that the City has widespread and longstanding  
23 practices of seizing and destroying unhoused people’s belongings in violation of  
24 the U.S. and California Constitutions. First, taken together with the City’s  
25 documentation about the cleanups themselves, they contribute to a “before” and  
26 “after” view of encampments, which is relevant to the question of what the City  
27 seizes and destroys. The notices also contain highly relevant information about  
28

1 how the cleanups are conducted (noting where encampments are, the factors the  
2 City considers in determining how much time and what equipment is needed, and  
3 what is known to the City about property ownership before the cleanup is  
4 conducted). The notices are also relevant to identifying witnesses whose property  
5 was taken during cleanups—the photos show encampments as they existed before  
6 the cleanups, which makes it possible for individuals to recognize their belongings.

7 The only objection Defendant raises to the relevance of these notices is  
8 based on its willful misrepresentation of the scope of Plaintiffs’ case and its total  
9 disregard for both Plaintiffs’ *Monell* claims and their claims for prospective relief.  
10 There is no merit to this objection. Just as the individual “postings/surveys” notices  
11 are relevant to the question of whether the City violated the individual Plaintiffs’  
12 rights during the Specific Incidents, notices of other cleanups are relevant to  
13 whether the City has a widespread custom or practice of constitutional violations.

14 **b. Proportionality**

15 The request for posting notices, which now goes back only a year prior to  
16 the Specific Incidents and continuing through to the present, are proportional to the  
17 needs of the case. As discussed in detail above, the issues at stake in this litigation  
18 are of constitutional significance; the amount in controversy is largely irrelevant  
19 given that Plaintiffs primarily seek prospective relief to put an end to the City’s  
20 unconstitutional practices; and the City of Los Angeles has far more resources than  
21 the seven unhoused individuals whose belongings were seized and the volunteer  
22 organization whose resources go to replacing those belongings. *See supra*,  
23 Plaintiffs’ Argument re: Response No. 2. The other factors also weigh heavily in  
24 Plaintiffs’ favor.

25 **i. Parties’ relative access to relevant information**

26 As with all documentation of cleanups, there is near total asymmetry of  
27 access to relevant information. Defendant has all of the relevant information and  
28

1 plaintiffs have almost none.<sup>19</sup> This allows the City to cherry-pick documents it  
2 wishes to use from its database of thousands of cleanups, while refusing to produce  
3 the same documents that support Plaintiffs' case. The implications of this  
4 asymmetry were on full display in response to Plaintiffs' motion to enjoin a  
5 provision of LAMC 56.11 on the ground that it is unconstitutional on its face.  
6 Even when the only issue before the Court was whether provisions of the  
7 ordinance were *facially* unconstitutional, the City still cherry-picked documents  
8 related to other cleanups to bolster its defense. *See* Myers Decl., Exh. J. The  
9 documents it relied on are of the kind Plaintiffs seek here, but which the City has  
10 refused to produce.

11 **ii. Importance of the discovery in resolving the issues**

12 The parties in this case disagree about the City's practices in seizing and  
13 destroying unhoused people's belongings. *See id.* at ¶ 47 (disputing Plaintiffs'  
14 allegation that it is the City's practice to deem "a bicycle with all of its parts and a  
15 detached front wheel present at a site" inoperable and therefore discard it).  
16 Evidence that relates to the existence of unconstitutional customs, policies, and  
17 practices and the question of whether those customs, policies, and practices are  
18 widespread and longstanding, is key to the question of both *Monell* liability and to  
19 the individual plaintiffs' and KFA's claims for prospective relief.

20 The City has kept documentation of its cleanups, which is the best evidence  
21 available of the extent to which these policies and customs exist. For example, the  
22

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23 <sup>19</sup> Plaintiffs have been able to gain access to some records from third parties  
24 who in turn have obtained City records through public records requests to the City.  
25 *See e.g.*, Riskin Decl., ¶¶ 3-9, Exh. A-C; Myers Decl., ¶¶ 78-83. Access to these  
26 documents from third parties who also obtained them from the City does not  
27 militate against production in discovery, because the information is still solely the  
28 City's information. Moreover, Plaintiffs cannot ensure that all documents have  
been produced to the third parties, nor can they seek court intervention, as they are  
forced to do here, if the production is incomplete. The fact that the documents have  
been produced to third parties simply underscores the accessibility of these  
documents and the relative ease with which the City has been able to produce this  
information in the past.

posting/surveys are the best available evidence of the City's practices and customs of posting notices before conducting comprehensive cleanups, including, for example, the question of whether and to what extent the City posts notices of cleanups it does not conduct. The use of these notices is also critical to the claims that the City violates unhoused people's due process rights. In fact, the City's defense against those claims centers around the use of these notices. *See e.g.*, Opposition to Plaintiffs' Motion for a Preliminary Injunction (Dkt. 42). Evidence of the City's practices related to the posting of notices also goes directly to Plaintiffs' claim that the City's practice of posting notices and then failing to conduct cleanups undermines the sufficiency of these notices and renders seizures and destruction unreasonable. Finally, the notices also show what encampments look like prior to the cleanups, which goes directly to the question of what and how much property the City seizes and destroys.

**iii. Whether the burden or expense of the proposed discovery outweighs its likely benefit**

Although the City puts forth two pages of explanation about the steps it asserts are necessary to identify and produce responsive documents, the steps spelled out by Defendant do not appear necessary or relevant to this request or answer any questions about how the documents are stored, such that producing a large volume of documents would create a burden for the City that outweighs its likely benefit.

First, the main burden the City raises to produce responsive documents is the time and expense of sorting through a large volume of documents to identify specific documents responsive to Plaintiffs' requests. For example, the City suggests that it must generate "a report identifying all cleanups, and then collect associated posting surveys for each cleanup." But Defendant provides no explanation whatsoever, despite numerous requests from Plaintiffs for it to do so, about how these documents are stored. Plaintiffs' request does not require the City

1 to search for any specific documents. In an attempt to mitigate any purported  
2 burden to Defendant, Plaintiffs request *all* posting surveys, which eliminates the  
3 expense of identifying specific documents responsive to Plaintiffs' requests. The  
4 City can simply produce all of the documents in its possession, custody or control.  
5 The same is true for all requests for the City's documentation of cleanups. As long  
6 as the City produces metadata of the documentation of individual incidents and  
7 retains the file structure of the stored documents, Plaintiffs will take on any burden  
8 of sorting through the documents that have been produced.

9 Second, although the number of documents responsive to this request may  
10 be voluminous (although not as many as the City alleges, because Posting surveys  
11 are issued per day, not per cleanup), the number of documents responsive to a  
12 request is not relevant to the question of burden, *In re Citibank Mortgage*, 2012  
13 WL 10450139, at \*4, nor is it dispositive of the question of whether the burden  
14 outweighs the benefit. *See Gutierrez*, 2019 WL 8060079, at \*9. Here, Defendant  
15 has refused to provide any information about how the documents are stored or  
16 what would be required to actually produce the documents. Plaintiffs repeatedly  
17 requested the City provide Plaintiffs with this information in order to allow the  
18 parties to discuss the potential burden and ways to minimize that burden, but the  
19 City refused. Because the City failed to provide any information about how the  
20 documents are stored or what would be required to produce these specific  
21 documents, it cannot support its claim that that the production of these documents  
22 is burdensome.

23 And finally, these documents are public records, which undermines the  
24 City's argument that the production of the documents would be burdensome, both  
25 because there is no corresponding privacy interest at stake, and because the City  
26 has routinely produced these documents in response to CPRAs. A burden analysis  
27 often assumes that information subject to disclosure would otherwise be private  
28



1 and but for Rule 26, would not otherwise available to the opposing party (e.g.,  
2 financial information of private parties, arrest and personnel records). Therefore, a  
3 component of the burden analysis assumes limitations to prevent requests that  
4 unnecessarily invade a party's privacy interests. *See e.g., In re: Citimortgage*,  
5 2012 WL 10450139 at \*3 (Court balanced defendant's right to confidentiality  
6 against the relevance of the information being sought by plaintiffs in ordering  
7 production); *Ragge v. MCA/Universal Studios*, 165 F.R.D. 601, 605 (C.D. Cal.  
8 1995). That analysis does not apply to these records, however because the City of  
9 Los Angeles is subject to the CPRA. The documents Plaintiffs seek in this request  
10 are unquestionably public documents subject to disclosure under the CPRA. In  
11 fact, the City has routinely produced these exact documents in response to public  
12 records act requests. *See Riskin Decl.*, ¶ 3, *Myers Decl.*, ¶¶ 79-82. There is no  
13 privacy interest at stake in overproducing documents in response to a request the  
14 City considers "overbroad." The only factor at issue then is the burden of the  
15 actual production of documents, which here is minimal.

16 **c. Objection that the Discovery Sought is not "Reasonably**  
17 **Accessible"**

18 Defendant objects that the documents sought are not "reasonably accessible,  
19 based on the undue burden and costs associated with searching for and producing  
20 documents responsive to this Request. . . ." To the extent the City intends this  
21 objection to refer to the special limitation for ESI under Rule 26(b)(2)(B), the  
22 objection misses the mark.

23 Under Rule 26(b)(2)(B), "A party need not provide discovery of  
24 electronically stored information from sources that the party identifies as not  
25 reasonably accessible because of undue burden or cost." Fed. Rule Civ. Pro. 26(b)  
26 (2)(B). The burden for demonstrating that ESI is stored in sources that are not  
27 "reasonably accessible" rests on the party objecting to the discovery, and then the  
28 burden shifts to the party seeking discovery to demonstrate good cause. *Id.*

1 Defendant cannot meet the burden here. As an initial matter, the Rule 26(b)(2)(B)  
2 applies only to ESI, not other documents, and these documents exist in both paper  
3 and electronic form. But even with ESI, the City’s own explanation of the process  
4 for obtaining responsive documents prove why the documents are in fact “readily  
5 accessible” under Rule 26(b)(2)(B).

6 In *U.S. ex rel. Carter*, 305 F.R.D. at 240, the Court articulated the well-  
7 established distinction between “readily accessible” documents which are subject  
8 to the standard Rule 34 analysis and “inaccessible” ESI, which is subject to the  
9 Rule 26 limitation. In general, inaccessible ESI “is not readily useable and must be  
10 restored to an accessible state before the data is usable,” such as archival backup  
11 tapes or backups of data stored for emergency restoration. *Id. But see U.S. Exh.*  
12 *Rel. Guardiola*, 2015 WL 5056726, at \*3-4 (even some backup documents may be  
13 deemed readily accessible if the backups can be easily restored and finding the  
14 \$136,000 cost of restoration reasonable); *Sung Gon Kang*, 2020 WL 1689708, at  
15 \*5 (even sources of documents that are encrypted and not searchable were still  
16 “readily accessibly” under Rule 26(b)(2)(B)). On the other hand, “[a]ctive ESI  
17 sources—e.g., active computer files or e-mail records—proceeds in the same  
18 manner as would discovery from paper sources.... No special request must be  
19 made, and no special standards apply.” *Tyler*, 2015 WL 1955049, at \*1 (citation  
20 omitted).

21 The documents Plaintiffs seek come from precisely these kinds of “active  
22 ESI.” As the City’s objection spelling out the process for obtaining the documents  
23 makes clear, the relevant records are included in active databases and servers. No  
24 restoration of any kind is necessary. The only step the City identifies as  
25 burdensome is downloading the data from the cloud, but “[m]oving active and  
26 easily accessible ESI from one storage medium to another does not, by itself,  
27 render it inaccessible.” *Al Otro Lado, Inc.*, 328 F.R.D. at 421. Any burden the City  
28

1 identifies is not in accessing the documents, but instead in compiling them for  
2 production. That does not make the documents “inaccessible” under Rule  
3 26(b)(2)(B). *See Sung Gon Kang*, 2020 WL 1689708, at \*5 (finding that requested  
4 documents were reasonably accessible and not burdensome where “accessing the  
5 [documents] and their content is easily achievable but compiling the [documents]  
6 may prove somewhat time consuming”).

7 **d. The City Waived its Other Objections**

8 The City objects that “to the extent the Request seeks information protected  
9 from disclosure by the attorney-client privilege and or attorney work product  
10 doctrines.” The City has refused to provide any information about any documents  
11 it is withholding on the basis of this objection, or even how the objection would  
12 apply to this category of documents. The use of this boilerplate objection here is  
13 patently absurd and an abuse of the discovery process. *See Polaris*, 2017 U.S.  
14 Dist. LEXIS 222261, at \*14-17. Defendant has waived any objections it might  
15 have had that these documents were privileged by failing to provide any additional  
16 information regarding these claims. *See DeSilva*, 2020 WL 5947827, at \*7.

17 The City has also waived its general objections, which as with all of its  
18 requests, the City incorporates into this response. But here as well, the City failed  
19 to provide any basis for the specific objection or even an assessment of whether the  
20 objection specifically applies to the request, let alone whether any documents are  
21 being withheld on the basis of any of these objections. The use of boilerplate  
22 objections here is also inappropriate and an abuse of the discovery  
23 process. *Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17; *Eisenhower Med.*  
24 *Ctr.*, 2020 U.S. Dist. LEXIS 218716, at \*9.

25 The City’s boilerplate objections do not apply to this specific Request for  
26 Production. The City refused to clarify which of the objections (if any) applied to  
27 this request, let alone the facts necessary to support its application, even after  
28

1 months of requests by Plaintiffs for the City to do so as required by Rule 34. The  
2 City has therefore waived the objection. *See, e.g., Bosley*, 2016 WL 1704159, at  
3 \*5 (Defendant waived blanket objections by failing to provide details of the  
4 objections as required by Rule 34(b)(2)(B)).

5 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
6 **NO. 30:**

7 Posting surveys are a subset of the encampment cleanup documents  
8 requested in RFP Nos. 2 and 33. The City’s Response to RFP No. 2 addresses in  
9 detail the City’s summary of Plaintiffs’ alleged claims in the SAC, and arguments  
10 regarding relevance, Monell, the DJA, proportionality, burden and expense. *See*  
11 *City Response to RFP No. 2, supra*. Rather than restate the City’s detailed  
12 responses to those issues here, the City refers the Court to those arguments and  
13 addresses several additional issues specific to RFP No. 30.

14 **A. City’s Additional Arguments Re Relevance**

15 As an initial matter, LSD prepares posting surveys for posted comprehensive  
16 cleanups. Wong Decl. ¶¶ 8-9. ECIs survey cleaning areas and written notices of  
17 major cleanup location a minimum of 24 hours and no more than 72 hours before  
18 the official start time for the cleanup under the SOPs. Wong Decl. ¶ 9. ECIs take  
19 pictures of the written notices posted at the cleanup location and prepare the  
20 posting survey. *Id.* LSD also conducts unposted compliance and response to  
21 immediate threats to public health and safety that may be conducted the same day  
22 or in less than 24 hours that fall under CARE and were previously referred to as  
23 Rapid-Response cleanups. Wong Decl. ¶ 15.

24 Plaintiffs moved to compel further production of incident-specific  
25 documents for Plaintiffs Zamora and Zepeda and Plaintiff Haugabrook under RFP  
26 No. 2, but those incidents allege unposted Rapid-Response cleanups. Lebron Decl.  
27 ¶ 2, Ex. 27, SAC ¶¶ 156, 170 (Zamora and Zepeda); ¶ 195 (Haugabrook). The  
28

1 City produced incident-specific documents, including posting surveys, included  
2 within document productions made on November 9, 2019 on (CITY00001-2212)  
3 and December 10, 2019 (CTY002213-2677). Lebron Decl. ¶ 15. Plaintiffs do not  
4 challenge the sufficiency of the City's production of posting surveys in the  
5 incident-specific discovery.

6 Similar to RFP No. 2, the City raised privilege objections based on  
7 Plaintiffs' broad demand for all email communications relating to various topics.  
8 The City has not withheld any documents on the basis of privilege for incident-  
9 specific documents produced in response to this request. The argument that the  
10 City waived privilege because it did not produce a privilege log on over half a  
11 million documents that that the City has not reviewed fails for the same reasons  
12 discussed in the City's Response to RFP No. 1. *See* City's Response to RFP No. 1,  
13 *supra*. Similarly, Plaintiffs are not entitled to a declaration regarding the City's  
14 search efforts. *Travelers Indem. Co. v. Trumpet, Inc.*, Case No. 8:19-cv-01036-  
15 PSG (JDEx), 2020 U.S. Dist. LEXIS 166187, at \*45 (C.D. Cal. May 8, 2020).

16 Plaintiffs argue that posting surveys are relevant to allow individuals to  
17 determine whether they recognize property in any pictures included in the posting  
18 survey. This discovery is admittedly not related to the Plaintiffs' specific alleged  
19 claims, but an attempt to conduct discovery on unalleged claims or efforts to  
20 search for potential new plaintiffs, both of which are outside the scope of Rule  
21 26(b)(1). *Valenzuela v. City of Calexico*, Case No. 14-cv-481-BAS-PCL, 2015  
22 U.S. Dist. LEXIS 26566, at \* 3 (S.D. Cal. Mar. 4, 2015) (“[A] litigant may not file  
23 suit in order to use discovery as the sole means of finding out whether [plaintiffs  
24 have] a case.”) (quotations omitted); *Carrera v. First Am. Home Buyers Prot. Co.*,  
25 Case No. 13cv1585 H (WMc), 2014 U.S. Dist. LEXIS 190451, at \*7-8 (S.D. Cal.  
26 Jan. 29, 2014) (the purpose behind Rule 26(b)(1) . . . is to “signal[] to the parties  
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1 that they have no entitlement to discovery to develop new claims or defenses that  
2 are not already identified in the pleadings”).

3 Plaintiffs also argue that posting surveys are relevant to identifying  
4 witnesses whose property was taken during the cleanups or for showing before and  
5 after pictures of a cleanup area. As noted above, posting surveys document the  
6 area survey and posting of written notices of a major comprehensive cleanup and  
7 include pictures taken of the written notices posted in the cleanup area between 24-  
8 72 hours before scheduled start time. Wong Decl. ¶ 9. Between the posting of the  
9 notice and start of the cleanup operation, individuals may have vacated the cleanup  
10 area before the start time, property in the cleanup area may have been removed by  
11 the owner before the cleanup starts, or property may have been removed and stored  
12 or discarded during cleanup operation. Plaintiffs’ argument that this information is  
13 relevant to identify witness or property is entirely speculative. *Rivera v. NIBCO,*  
14 *Inc.*, 364 F.3d 1057, 1072 (9th Cir. 2004) (“District courts need not condone the  
15 use of discovery to engage in fishing expeditions.”) (quotations omitted).

16 Plaintiffs claim that the posting surveys may reflect a practice of posting  
17 notices but then cancelling a cleanup operation. Assuming, *arguendo*, that such a  
18 policy existed, Plaintiffs do not explain how posting a notice, but not conducting a  
19 cleanup, violates the Fourth Amendment or Due Process Clause, or constitutes a  
20 moving force behind the alleged violation of Plaintiffs’ constitutional rights.  
21 *Oklahoma City v. Tuttle*, 471 U.S. 808, 823 (1985); *Centeno v. City of Fresno*,  
22 Case No. 1:16-cv-00653-DAD-SAB, 2016 U.S. Dist. LEXIS 180013, at \* 23 (E.D.  
23 Cal. Dec. 29, 2016) ([T]he mere existence of a policy is not sufficient to trigger  
24 liability under Section 1983, the policy of the department has to be the moving  
25 force behind the constitutional violation.”). Plaintiffs cite no authority supporting  
26 the contention that cancelling a cleanup violates constitution. A policy that causes  
27  
28



1 no constitutional violation is irrelevant. *City of Los Angeles v. Heller*, 475 U.S.  
2 796, 799 (1986).

3 **B. City's Additional Arguments Re Proportionality and Burden**

4 Plaintiffs contend that the City did not meet and confer regarding the  
5 burdens imposed on the City by the discovery request. Not so. On August 24,  
6 2020, the City raised its concerns regarding burden and proportionality in a meet-  
7 and-confer letter. Lebron Decl. ¶ 11, 18-19, **Ex. 36** (City 8/24/20 M&C Letter) at  
8 p.8-9. The City identified over 41,000 encampment cleanups dating back to April  
9 2016, and explained that LASAN would need to generate a report of all  
10 encampment cleanups, determine which cleanups were posted comprehensive  
11 cleanups, identify those cleanups by the WPIMS incident/case number, and then  
12 manually search for and collect the posting surveys by the WPIMS incident/case  
13 number. Lebron Decl. ¶ 11, Ex. 36. On August 25, 2020, the Parties conducted a  
14 meet-and-confer call, during which the City addressed the burdens with the  
15 production of these documents. Lebron Decl. ¶ 19.

16 On September 25, 2020, the City responded to Plaintiffs' September 14,  
17 2020 meet-and-confer letter, in which Plaintiffs proposed that the City produce all  
18 documents dating back to January 1, 2018 (instead of April 1, 2016), and offering  
19 to accept all information contained in the City's databases without limitation or  
20 parameters. Lebron Decl. ¶ 12, **Ex. 37** (City 9/25/20 M&C Letter) at p.7. In  
21 response to RFP Nos. 30-34, the City explained that it identified over 32,000  
22 encampment cleanups dating back to January 1, 2018, and that Plaintiffs' proposals  
23 did not address the burdens imposed on collecting the documents described in  
24 detail in the City's August 24, 2020 meet-and-confer letter. *Id.* at p.13.

25 During the meet-and-confer process, the City attempted to address Plaintiffs'  
26 expansive demands by agreeing to produce certain electronically exportable  
27 information (but not documents) from WPIMS, AMS, and MYLA311 database.  
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1 Ursea Decl. ¶¶ 12, 27. WPIMS excel spreadsheet CTY020222 contains additional  
2 data regarding encampment cleanups conducted in 2018 and 2019 and WPIMS  
3 spreadsheet CTY020331 contains this information for 2020. Lebron Decl. ¶ 13,  
4 **Ex. 39** (City's Amended Rog Responses), Response 13(c); Wong Decl. ¶ 25; Ursea  
5 Decl. ¶ 27, **Ex. 19** (Exemplar screenshots of WPIMS excel spreadsheet).

6 The Wong Declaration and the City's Amended Interrogatory Responses  
7 support the City's objections regarding the burdens imposed on the City in  
8 responding to Plaintiffs' request. *See* Wong Decl. ¶¶ 16-29. In August 2020, the  
9 City identified approximately 32,730 incidents/cases for the period from January 1,  
10 2018 to July 31, 2020. Wong Decl. ¶ 24. LSD uses the incident/case number to  
11 identify reports and documents saved on WPIMS. Wong Decl. ¶ 21. There is no  
12 automated method for exporting documents and reports saved on WPIMS, and the  
13 reports and related documents must be identified by WPIMS incident/case number  
14 and downloaded manually. Wong Decl. ¶¶ 21, 26; Lebron Decl. ¶ 14, **Ex. 39**  
15 (City's Amended Rog Responses), Response 13(c). In order to obtain a document,  
16 like a posting survey, on WPIMS, an ECI must manually download one document  
17 or report at a time. Wong Decl. 21. In order to collect all posting surveys, an ECI  
18 would need to reference a spreadsheet identifying all WPIMS incident/case  
19 numbers, the date and type of cleanup (posted comprehensive cleanup or  
20 compliance action), manually download posting surveys saved in WPIMS, conduct  
21 additional searches by incident/case number for documents not saved on WPIMS.  
22 Wong Decl. ¶ 26.

23 The City would assign one or more ECIs to collect documents relating to  
24 encampment cleanups, including posting surveys. Wong Decl. ¶ 27. LSD is  
25 currently short staffed with 12 ECI positions currently vacant as a result of budget  
26 cuts or ECI's promoting or transferring to other positions. *Id.* The work required  
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1 to collect encampment cleanup reports and related documents, like posting survey,  
2 would strain LSD's existing resources. *Id.*

3 The City estimates that it would cost approximately \$270,000 to collect all  
4 encampment cleanup documents and posting surveys dating back to January 1,  
5 2018. Wong Decl. ¶ 29. The estimated of the amount of time to collect  
6 approximately 32,730 encampment cleanup reports and related documents  
7 (including posting surveys) is approximately 6,546 hours. Wong Decl. ¶ 28. This  
8 is based on a conservative time estimate of 12 minutes to obtain documents by  
9 WPIMS incident/case numbers. *Id.* Assuming it would take an ECI 6,546 hours to  
10 complete the document collection, **the total estimated cost to the City is over**  
11 **\$270,000.** Wong Decl. ¶ 29. This is based on an average ECI rate of \$41.27 per  
12 hour. *Id.* The cost and burden imposed on the City's resources is substantial. For  
13 this and reasons discussed in more detail in the City's Response to RFP No. 2,  
14 Plaintiffs' discovery demands are not proportional to the needs of this case. *See*  
15 *City Response to RFP No 2, supra; Hoffman v. Cnty. of Los Angeles*, Case No.  
16 *CV-15-03724-FMO (ASx)*, 2016 U.S. Dist. LEXIS 123515 \* (C.D. Cal. Jan. 5,  
17 2016); *Goodwin v. City of Glendora*, Case No. *CV-17-3537-FMO (PLAx)*, 2017  
18 U.S. Dist. LEXIS 224122, \* 15-16 (C.D. Cal. Dec. 13, 2017); *Saunders v. City of*  
19 *Chicago*, Case No. *12-cv-9158*, 2017 U.S. Dist. LEXIS 509, \* 31-32 (N.D. Ill. Jan.  
20 4, 2017); *Crawford v. Cnty. of Orange*, Case No. *SA-CV-160503—DOC (DFMx)*,  
21 2017 U.S. Dist. LEXIS 224164 (C.D. Cal. Oct. 13, 2017). The motion to compel  
22 production of all posting surveys for encampment cleanups conducted since  
23 January 1, 2018 should be denied.

1           **REQUEST FOR PRODUCTION NO. 33:**

2           All HOPE/Rapid Response 56.11 Enforcement Reports and related  
3 DOCUMENTS. This request includes related Health Hazard checklists, HOPE  
4 Metrics sheets, photographs, and other DOCUMENTS related to these reports.

5           **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

6           Defendant incorporates the General Objections as though fully set forth here.  
7 Defendant objects that the Request seeks documents that are not relevant to  
8 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
9 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
10 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
11 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
12 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
13 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
14 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
15 SAC as seeking only to obtain a ruling that the City's policies and practices are  
16 unconstitutional and not that each past application of those policies and practices to  
17 its members was unconstitutional."). Defendant also objects that the proposed  
18 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
19 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
20 single incident ... to hold the City liable under *Monell*."). Defendant objects that  
21 the Request is overbroad and burdensome in seeking documents regarding  
22 encampment cleanups dating back over four years to April 1, 2016 that are  
23 unrelated, and not relevant, to Plaintiff El Bey's specific claims alleged in the  
24 SAC. Defendant also objects to the Request to the extent the Request seeks  
25 information protected from disclosure by the attorney-client privilege and or  
26 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
27 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
28

1 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
2 15-17 (C.D. Cal. Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing any such proposed discovery outweighs the benefit of such information  
6 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
7 search and producing documents greatly exceeds the amount in controversy for  
8 Plaintiff's alleged damages.

9 Specifically, in order to search for and obtain documents responsive to the  
10 Request, Defendant would need to search LASAN's WPIMS database to identify  
11 all incidents constituting "encampment cleanups" as defined in the Request.  
12 Defendant identified 41,734 incidents within WPIMS constituting "encampment  
13 cleanups" as defined in the Request for the period from April 1, 2016 to July 31,  
14 2020. Defendant would have to conduct a query and search parameters within  
15 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
16 for the encampment cleanup, date, incident/case number, and form of encampment  
17 cleanup. For each identified incident number, Defendant would need to generate  
18 reports within WPIMS for the encampment cleanup, and collect associated health  
19 hazard checklists by incident number.

20 For each identified incident number, Defendant would need to generate  
21 reports within WPIMS for the encampment cleanup, and collect associated health  
22 hazard checklists. Defendant would then have to conduct additional searches for  
23 encampment cleanup pictures and media files by incident number that are not  
24 stored on WPIMS. The number of pictures associated with an encampment cleanup  
25 could exceed over 700 pictures for one incident report. Defendant would also have  
26 to manually search for, collect, and assemble related documents by incident  
27 number, including any posting surveys, hazardous-waste disposal records, non-  
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1 hazardous waste disposal records, and cleanup authorizations maintained in  
2 LASAN's AMS. In addition, upon identifying specified incident/case numbers for  
3 responsive encampment cleanups, Defendant would then have to conduct searches  
4 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
5 officers by corresponding date, location, and LAPD Bureau, including searches for  
6 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
7 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
8 addition, Defendant would have to search for LAPD body worn video that may  
9 exist for identified incidents involving LAPD HOPE Officers and review such  
10 video for responsiveness to the Request. Defendant previously conducted a search  
11 for and produced such incident-specific documents for the named individual  
12 plaintiffs' specific incidents at CITY00001-2677.

13 Defendant would also need to search for potentially responsive documents  
14 or information for encampment cleanups as defined in the Request that may be  
15 maintained within LASAN's Customer Service Group's MyLA database for  
16 service requests. Defendant would have to conduct a search parameter for service  
17 requests relating to encampment cleanups as defined in the Request for the period  
18 from April 1, 2016 to the present and generate a report identifying service requests  
19 for defined encampment cleanups by location address and date range. Defendant  
20 would then need an analyst to manually review MyLA data and cross-reference  
21 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
22 query to determine potentially corresponding service requests for identified  
23 encampment cleanups. Defendant would then have to prepare a separate report  
24 containing identified service requests within the MyLA database corresponding to  
25 identified WPIMS incident/case numbers for encampment cleanups. In addition,  
26 for cleanups occurring after October 2019, Defendant would have to conduct  
27 searches for potentially responsive documents within the City's daily schedules  
28



1 issued for CARE and CARE+ operations by reviewing schedules and cross  
2 referencing the schedules with identified incident/case numbers, dates, and  
3 locations. Defendant objects that the Request seeks documents that are not  
4 reasonably accessible based on the undue burden and costs associated with  
5 searching for and producing documents responsive to this Request for the reasons  
6 described above. Without waiving any, and based on these, objections, no  
7 documents will be produced in response to this Request.

8 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

9 Defendant incorporates the General Objections as though fully set forth here.  
10 Defendant objects that the Request seeks documents that are not relevant to  
11 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
12 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
13 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
14 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
15 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
16 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
17 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
18 SAC as seeking only to obtain a ruling that the City's policies and practices are  
19 unconstitutional and not that each past application of those policies and practices to  
20 its members was unconstitutional."). Defendant also objects that the proposed  
21 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
22 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
23 single incident ... to hold the City liable under *Monell*"). Defendant objects that  
24 the Request is overbroad and burdensome in seeking documents regarding  
25 encampment cleanups dating back over four years to April 1, 2016 that are  
26 unrelated, and not relevant, to Plaintiff El Bey's specific claims alleged in the  
27 SAC. Defendant also objects to the Request to the extent the Request seeks  
28

1 information protected from disclosure by the attorney-client privilege and or  
2 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
3 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
4 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
5 15-17 (C.D. Cal. Sep. 9, 2013).

6 Defendant further objects that the Request is burdensome and not  
7 proportional to the needs of the case, insofar as the burden of searching for and  
8 producing any such proposed discovery outweighs the benefit of such information  
9 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
10 search and producing documents greatly exceeds the amount in controversy for  
11 Plaintiff's alleged damages.

12 Specifically, in order to search for and obtain documents responsive to the  
13 Request, Defendant would need to search LASAN's WPIMS database to identify  
14 all incidents constituting "encampment cleanups" as defined in the Request.  
15 Defendant identified 41,734 incidents within WPIMS constituting "encampment  
16 cleanups" as defined in the Request for the period from April 1, 2016 to July 31,  
17 2020. Defendant would have to conduct a query and search parameters within  
18 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
19 for the encampment cleanup, date, incident/case number, and form of encampment  
20 cleanup. For each identified incident number, Defendant would need to generate  
21 reports within WPIMS for the encampment cleanup, and collect associated health  
22 hazard checklists by incident number.

23 For each identified incident number, Defendant would need to generate  
24 reports within WPIMS for the encampment cleanup, and collect associated health  
25 hazard checklists. Defendant would then have to conduct additional searches for  
26 encampment cleanup pictures and media files by incident number that are not  
27 stored on WPIMS. The number of pictures associated with an encampment cleanup  
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1 could exceed over 700 pictures for one incident report. Defendant would also have  
2 to manually search for, collect, and assemble related documents by incident  
3 number, including any posting surveys, hazardous-waste disposal records, non-  
4 hazardous waste disposal records, and cleanup authorizations maintained in  
5 LASAN's AMS. In addition, upon identifying specified incident/case numbers for  
6 responsive encampment cleanups, Defendant would then have to conduct searches  
7 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
8 officers by corresponding date, location, and LAPD Bureau, including searches for  
9 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
10 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
11 addition, Defendant would have to search for LAPD body worn video that may  
12 exist for identified incidents involving LAPD HOPE Officers and review such  
13 video for responsiveness to the Request. Defendant previously conducted a search  
14 for and produced such incident-specific documents for the named individual  
15 plaintiffs' specific incidents at CITY00001-2677.

16 Defendant would also need to search for potentially responsive documents  
17 or information for encampment cleanups as defined in the Request that may be  
18 maintained within LASAN's Customer Service Group's MyLA database for  
19 service requests. Defendant would have to conduct a search parameter for service  
20 requests relating to encampment cleanups as defined in the Request for the period  
21 from April 1, 2016 to the present and generate a report identifying service requests  
22 for defined encampment cleanups by location address and date range. Defendant  
23 would then need an analyst to manually review MyLA data and cross-reference  
24 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
25 query to determine potentially corresponding service requests for identified  
26 encampment cleanups. Defendant would then have to prepare a separate report  
27 containing identified service requests within the MyLA database corresponding to  
28

1 identified WPIMS incident/case numbers for encampment cleanups. In addition,  
2 for cleanups occurring after October 2019, Defendant would have to conduct  
3 searches for potentially responsive documents within the City's daily schedules  
4 issued for CARE and CARE+ operations by reviewing schedules and cross  
5 referencing the schedules with identified incident/case numbers, dates, and  
6 locations. Defendant objects that the Request seeks documents that are not  
7 reasonably accessible based on the undue burden and costs associated with  
8 searching for and producing documents responsive to this Request for the reasons  
9 described above. Without waiving any, and based on these, objections, Defendant  
10 responds that Defendant produced LAPD HOPE and LASAN 56.11 enforcement  
11 reports responsive to this Request for the individual Plaintiffs' specific alleged  
12 incidents at CTY000001-2677, but Defendant objects to further production of  
13 documents responsive to this Request.

14 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
15 **NO. 33:**

16 Plaintiffs seek the HOPE/Rapid Response Enforcement Reports and related  
17 documentations for encampment cleanups. *See* Myers Decl., ¶ 81, Exh. AU.  
18 Plaintiffs originally requested these documents going back to April 2016, based in  
19 part on the City's willingness to produce these very documents in response to third  
20 party CPRAs. *See* Myers Decl., ¶¶ 79-82. In response to Plaintiffs' request,  
21 however, the City refused to produce any of these documents (including the ones  
22 previously produced pursuant to the CPRA), arguing now that the requests were  
23 not relevant to Plaintiffs' claims and not proportionate to the needs of the case.  
24 The City's objections however do not relate to the actual burden associated with  
25 the case—the three pages of objections are duplicative of other objections and do  
26 not specifically address any burden associated with producing these specific  
27 documents. In an attempt to address the City's concerns, Plaintiffs revised its  
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request to seek only those documents going back to January 1, 2018 and clarified that Plaintiffs did not intend the request to include all of the documents described by Defendant (including LAPD documents, etc.). Plaintiffs again requested information about how the specific documents were stored, offered other options such as sampling, and again offered to meet and confer about ways to mitigate the burden asserted by the City. *See* Myers Decl., ¶38, Exh. U. The City refused to provide any information about how these specific documents are stored or even how many reports actually exist,<sup>20</sup> and instead, has refused to produce any additional Health Hazard reports than the ones related to the Specific Incidents it had previously produced.

**a. Relevance of the Reports**

The information contained in the HOPE/Rapid Response reports and Health Hazard Assessment checklists are directly relevant to the core issues in Plaintiffs' claims that the City has widespread and longstanding practices of seizing and destroying unhoused people's belongings in violation of the US and California Constitutions. These reports document the City's implementation of the very policies that are at issue in this litigation, not for Plaintiffs' *Monell* claims, but also for its claims for prospective relief.

The reports contain the City's descriptions of how it conducts the cleanups, including qualitative descriptions of how it identifies property to seize and destroy. In fact, these documents are the only records the City keeps of items it impounds and subsequently destroys. *See* Myers Decl., ¶ 81, Exh. AU. Alongside the

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<sup>20</sup> The City contends that there are more than 41,000 "encampment cleanups" identified in the WPIMS database from April 2016 to the present, but the City does not state whether there are Health Hazard Assessments and checklists for each entry. In the WPIMS database produced to Plaintiff for 2018-2019 (CTY020222) there were 17,106 entries, and of those, more than 10,000 of the entries did not contain any data related to "solid waste-lbs collected," suggesting that the cleanup did not occur. And even when a Rapid Response enforcement action does occur, the City does not necessarily appear to create a report. *See* Myers Decl. ¶ 82.

1 Posting/Surveys, the documents contribute to a “before” and “after” view of  
2 encampments, which is relevant to the question of what property the City seizes  
3 and destroys. And in some instances, the documents identify the names of  
4 witnesses whose property was also taken pursuant to these policies. Therefore,  
5 these reports are directly relevant to the question of what the City’s policies,  
6 customs and practices are when it conducts these cleanups, which is the core issue  
7 in this case.

8 As with all of its other only objections, Defendant’s objection to the  
9 relevance of these notices is based on its willful misrepresentation of the scope of  
10 Plaintiffs’ case and its total disregard for both Plaintiffs’ *Monell* claims and their  
11 claims for prospective relief. Just as the individual reports and health hazard  
12 checklist are relevant to the question of whether the City violated the individual  
13 Plaintiffs’ rights during the Specific Incidents, reports of the City’s conduct when  
14 conducting other cleanups are relevant to whether the City has widespread customs  
15 or practices that violate the Constitution. Finally, the documents are relevant for  
16 impeachment purposes.

17 **b. Proportionality**

18 The request for Enforcement Reports, Health Hazard checklists, and  
19 photographs, which now goes back only a year prior to the Specific Incidents and  
20 continuing through to the present, is proportional to the needs of the case. As  
21 discussed in detail above, the issues at stake in this litigation are of constitutional  
22 significance; the amount in controversy is largely irrelevant given that Plaintiffs  
23 primarily seek prospective relief to put an end to the City’s unconstitutional  
24 practices; and the City of Los Angeles has far more resources than the seven  
25 unhoused individuals whose belongings were seized and the volunteer organization  
26 whose resources go to replacing those belongings. *See supra*, Plaintiffs Argument  
27 re: Request No. 2. The other factors also weigh heavily in Plaintiffs’ favor.  
28



**i. Parties' relative access to relevant information**

As with all documentation of cleanups, there is near total asymmetry of access to relevant information. Defendant has all of the relevant information and plaintiffs have almost none. This limits Plaintiffs' ability to marshal evidence in support of its claims of widespread and longstanding customs and practices, while allowing the City to cherry-pick documents it wishes to use from its database of thousands of cleanups, while refusing to produce the same documents that support Plaintiffs' case.

The impact of this is magnified by the parties' relative access to resources. As discussed above, *see infra*, Plaintiffs Arguent re: RFP No. 2, Plaintiffs and witnesses in this case are unhoused residents who allege they are frequently and consistently subject to constitutional violations that result in the loss of all of their belongings. They have difficulty keeping track of dates and times when these violations occur, given their lack of access to working phones, the internet, or even paper to keep track of the dates and times of those violations. And of course, the constitutional violations they allege actually make it even harder for them to track, for example, the dates and times they were subjected to those violations because the Encampment Cleanups frequently result in the loss of the tools necessary to keep track of that information. On the other hand, the City devotes thousands of hours to documenting these cleanups in the reports Plaintiffs now seek.

Already in this case, Defendant has attempted to take full advantage of Plaintiffs' lack of documentation and uncertainty around specific dates and times to undermine Plaintiffs and witnesses. From the beginning of this case, the City sought to undermine Plaintiffs James Haugabrook, Miriam Zamora and Gladys Zepeda's claims by selectively producing some documents and withholding others. *See Myers Decl.*, ¶¶ 69-73. The City attempted to pressure Plaintiffs to dismiss these claims based on their representations that the cleanups alleged in the Complaint did not occur. The City went so far as to selectively produce 22 reports

1 of cleanups and represented to Plaintiffs and this Court that it was producing “all  
2 reports of all cleanups in South LA,” when this was demonstratively false. *See*  
3 *infra*, Plaintiffs’ Argument re: Request No. 2; Myers Decl., ¶¶ 69-72. Similarly,  
4 Defendant produced documentation from five cleanups on June 11, 2019, but  
5 withheld for 18 months the documents actually related to the cleanup that forms  
6 the basis of Ms. Zamora and Ms. Zepeda’s claims. And for the March 21, 2019  
7 allegations, the City likewise produced documents for a cleanup at an entirely  
8 different location. *Id.*

9 Similarly, in response to declarations from KFA members in support of the  
10 motion for a Preliminary Injunction, Defendants selectively used reports from  
11 other cleanups in an attempt to undermine their credibility. *See* Myers Decl., ¶ 20,  
12 Exh. K. Even when the only issue before the Court was whether provisions of the  
13 ordinance were *facially* unconstitutional, the City still cherry-picked the very  
14 documents sought by Plaintiffs here in order to bolster its defense.

15 The total asymmetry of access to information would allow the City to  
16 continue to cherry-pick reports and selectively produce and then use as evidence  
17 only those reports that support its defenses, while withholding documents that  
18 support Plaintiffs’ claims.

19 **ii. Importance of the discovery in resolving the issues**

20 The parties in this case disagree about the City’s practices in seizing and  
21 destroying unhoused people’s belongings—the City contends it only destroys  
22 property that it constitutes an immediate threat to public health and safety, while  
23 Plaintiffs allege that in fact, the City destroys property that is not. The parties  
24 disagree on a number of other points about the City’s customs and practices. *See*  
25 *e.g.*, Myers Decl., ¶ 38, Exh. K at ¶ 47 (disputing Plaintiffs’ allegation that it is the  
26 City’s practice to deem “a bicycle with all of its parts and a detached front wheel  
27 present at a site” inoperable and therefore discard it). Evidence that relates to the  
28

1 existence of unconstitutional customs, policies, and practices and the question of  
2 whether those customs, policies, and practices are widespread and longstanding, is  
3 key to the question of both *Monell* liability and to the individual plaintiffs' and  
4 KFA's claims for prospective relief. The City has kept documentation of how it  
5 conducts its cleanups, which is some of the best evidence available of the extent to  
6 which the policies exist, including, for example, the question of whether and to  
7 what extent the City posts notices of cleanups it does not conduct.

8 In fact, these reports and related photos appear to be on the only  
9 documentation kept by the City about what it actually seizes and destroys, The rest  
10 of the City's qualitative data, which the City has now produced, is related to the  
11 total amount of "trash" that has been disposed of and property that has been sent  
12 to storage. This data, therefore is crucial to resolving the key issues in this case.

13 **iii. Whether the burden or expense of the proposed**  
14 **discovery outweighs its likely benefit**

15 Defendant has refused to produce any additional documentation of the City's  
16 Encampment Cleanups, other than the ones related to the Specific Incidents and the  
17 ones it has cherry-picked to produce, because it asserts that producing more would  
18 be too burdensome. As with the other documentation related to cleanups, the  
19 documents Plaintiffs seek are public records which the City has frequently  
20 produced in response to public records act requests. In fact, the City provided  
21 these exact documents in response to CPRA requests in 2018 and 2019. Myers  
22 Decl., ¶¶ 79-82. Defendant did not assert an objection on the basis of burden then,  
23 and instead simply produced the documents. *Id.*

24 Here on the other hand, the City does assert a burden. There is no merit to  
25 this argument. Defendant lays out two pages of steps to produce the documents  
26 responsive to this request, but in reality, the majority of the steps spelled out by  
27 Defendant are not necessary. In fact, according to Defendant, all that is required of  
28 Defendant to produce these documents is to 1) run a search in WPIMS for

1 encampment cleanups (which it has already done); 2) generate the reports; and 3)  
2 collect the Health Hazard Checklists and photographs. None of the other steps  
3 identified by Defendant are applicable to this request. And as with the posting  
4 surveys, Plaintiffs' request for *all* documents eliminates the burden of, for  
5 example, generating "a report identifying all cleanups, and then collect associated  
6 health hazard checklists by incident number." The City can simply conduct a  
7 reasonable search for all Health Hazard checklists and produce the documents in  
8 its possession, custody or control. The same is true for all requests for the City's  
9 documentation of cleanups. Because these are public records, there are no privacy  
10 interests that weigh against overproduction, when doing so actually reduces the  
11 burden to Defendant (and in this case, shifts it to the requesting party). The steps  
12 Defendant identifies are simply the tasks required to produce any document  
13 responsive to any request, "common in litigation." *Sung Gon Kang*, 2020 WL  
14 1689708, at \*5 (finding that, even decryption and filtering processes are not  
15 "unduly burdensome or costly" and instead, are common in litigation).

16 And although the number of documents responsive to this request may be  
17 voluminous, *but see* FN 20, the number of documents responsive to a request is  
18 simply not dispositive of the question of burden. The "mere fact that responding to  
19 a discovery request will require the objecting party to expend considerable time,  
20 effort and expense consulting, reviewing and analyzing huge volumes of  
21 documents and information is an insufficient basis to object to a relevant discovery  
22 request." *In re Citibank Mortgage*, 2012 WL 10450139, at \*4. Here, the burden is  
23 not even in reviewing and analyzing the documents, because Plaintiffs have shifted  
24 the burden to themselves. Instead, the burden comes solely from collecting the  
25 documents and producing them. *See Sung Gon Kang*, 2020 WL 1689708, at \*5  
26 (finding that requested documents were reasonably accessible and not burdensome  
27 where "accessing the [documents] and their content is easily achievable but  
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1 compiling the [documents] may prove somewhat time consuming”). And here, the  
2 burden is even less. The documents are all the same type of document, which must  
3 simply be generated from a database

4 And of course, even this burden is not dispositive of the question of whether  
5 the burden outweighs the benefit. *See Gutierrez v. Mora*, No. CV 18-781-KS, 2019  
6 WL 8060079, at \*9 (C.D. Cal. Dec. 9, 2019) (benefit outweighs burden where the  
7 information sought regarding Defendant’s K-9 policies and procedures is essential  
8 to Plaintiff’s *Monell* claims and Defendant provides no evidence of burden or  
9 expense). As discussed above, the documents Plaintiffs seek are highly relevant to  
10 this case. Plaintiffs bear the burden of establishing *Monell* liability, which can be  
11 done by showing a widespread and longstanding custom or practice. *See, e.g.,*  
12 *Pitkin*, 2017 U.S. Dist. LEXIS 208058, \*14-15. The existence of such policies and  
13 practice is the entirety of KFA’s case and all of the plaintiffs’ claims for  
14 prospective relief, and these records are critical to one of Plaintiffs’ main theories  
15 of the case—that the City has a widespread custom and practice of destroying  
16 property that is not an immediate threat to public health and safety. *See Thomas*,  
17 715 F. Supp. 2d at 1032 (granting a request for information going back nearly  
18 thirty years, where “in the context of th[e] action,” the requested information was  
19 “necessary to conduct a comparative analysis of the operation” at issue in the  
20 litigation and such analysis was “clearly relevant to Petitioner’s claims”).

21 Finally, Defendant is responsible for the methods it collects and stores these  
22 documents. To the extent the production is burdensome, that is largely a choice of  
23 Defendant. This is particularly relevant here because the data is stored in a way  
24 that supports its case (listing quantitative amounts of “trash” collected at a cleanup,  
25 without separating out property that is impounded) and is in an easily accessible  
26 format. The other data, which is relevant to what property is actually impounded  
27 and then destroyed, is stored only in narrative form and in handwritten checklists,  
28

1 which the City now refuses to produce based on burden. The City's choice to keep  
2 records of the documents that support its case in a form that is less burdensome to  
3 produce than other documents, does not form the basis for the City to withhold the  
4 other documents. *Id.*

5 Because the City maintains that the documents are not relevant, it has  
6 refused to concede that any amount of burden in producing these documents would  
7 be proportionate to the needs of the case. It has rejected any of Plaintiffs' myriad  
8 attempts to address Defendants' concerns or otherwise limit the universe of  
9 responsive documents, and it asserts that running searches to identify responsive  
10 documents creates significant burden. Plaintiffs already significantly reduced the  
11 temporal scope of this request from 2016 to 2018. These documents are critically  
12 important to this case, and the request is therefore proportionate to the needs of the  
13 case.

14 **c. Objection That the Discovery Sought is not "Reasonably**  
15 **Accessible"**

16 Defendant objects that the documents sought are not "reasonably accessible,  
17 based on the undue burden and costs associated with searching for and producing  
18 documents responsive to this Request. . . ." But as the City explains in its  
19 objections, the documents Plaintiffs are seeking are stored in active databases and  
20 servers.<sup>21</sup> Therefore, for purposes of Rule 26, there is no argument that the  
21 documents are not "reasonably accessible." *See Sung Gon Kang*, 2020 WL  
22 1689708, at \*5 (finding that requested documents were reasonably accessible and  
23 not burdensome where "accessing the [documents] and their content is easily  
24 achievable but compiling the [documents] may prove somewhat time consuming").

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25 <sup>21</sup> The City goes on to describe additional searches that would be required to  
26 identify, for example, LAPD documentation. Plaintiffs clarified during the meet  
27 and confer process that for purposes of this request, Plaintiffs are seeking only the  
28 Health Hazard reports, health hazard checklists, and photographs. They reserve  
the right to seek other documentation collected by the City for specific  
encampment cleanups after reviewing these reports.



**d. The City Waived its Other Objections**

As with almost all other requests, the City objects “to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines.” The City has refused to provide a privilege log or even an explanation of how the documents could possibly be privileged. As noted above, the City has produced many of these documents in response to CPRAs, without objecting on the basis of privilege, and a review of the documents demonstrates that they are in fact not privileged. The use of this boilerplate objection here is patently absurd and an abuse of the discovery process. *See Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. And Defendant has waived any objections it might have had that these documents were privileged by failing to provide any additional information regarding these claims. *See DeSilva*, 2020 WL 5947827, at \*7.

Likewise, the City has failed to provide any basis for the general objections or even an assessment of whether any objection specifically applies to the request, let alone disclosing whether any documents are being withheld on the basis of any of these objections. The use of boilerplate objections here is also inappropriate and an abuse of the discovery process. *See Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. *See also Eisenhower Med. Ctr.*, 2020 U.S. Dist. LEXIS 218716, at \*9. Even after months of meeting and conferring about the City’s insufficient responses, the City failed to clarify which of the objections (if any) applied to this request. The City has therefore waived these objections. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

**DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 33:**

RFP No. 2 is a subset of RFP Nos. 33-34, which Plaintiffs acknowledge. RFP No. 33 is significantly broader and seeks all reports, Health Hazard Checklists, photographs, metric sheets, and other documents relating encampment

1 cleanups for CARE and Rapid-Response operations conducted Citywide dating  
2 back to April 1, 2016. The City's Response to RFP No. 2 addresses in detail the  
3 City's summary of Plaintiffs' alleged claims in the SAC, and arguments regarding  
4 relevance, Monell, the DJA, proportionality, burden and expense. *See City*  
5 *Response to RFP No. 2, supra*. In addition, the City's Response to RFP No. 30  
6 addressed Plaintiffs' additional arguments regarding relevance, proportionality,  
7 cost and burden. *See City Response to RFP No. 2, supra*. Rather than restate the  
8 City's detailed responses on those issues here, the City refers the Court to those  
9 arguments, but address several additional issues. Plaintiffs incorporated their  
10 response to RFP No. 33 into RFP No. 34 for efficiency. The City will do the same  
11 and address any issues for both herein.

12 First, Plaintiffs argue that the WPIMS spreadsheet containing encampment  
13 cleanup data for 2018 and 2019 (CTY020222) had "more than 10,000 entries" that  
14 "did not contain any data related to 'solid waste-lbs collected', suggesting that the  
15 cleanup did not occur." The City's verified amended Interrogatory Responses  
16 (served on February 16, 2021), explained that WPIMS did not start collecting  
17 itemized data on waste collections until 2019. Lebron Decl. ¶ 14, **Ex. 39** (City's  
18 Amended Rog Responses), Response 13(c). Specifically, the City described the  
19 information contained in the WPIMS spreadsheets CTY020222 (2018-2019  
20 WPIMS data export) and CTY020331 (2019-2020 WPIMS data export) and stated  
21 "[s]tarting in 2019, WPIMS also includes itemized data collection, which provides  
22 estimates of how much, e.g., pounds of waste and urine feces, number of sharps,  
23 drug paraphernalia, reactive and ignitable compounds, were collected." *Id.*; *see*  
24 *also* Wong Decl. ¶ 18. This information was not tracked in WPIMS before 2019.  
25 Wong Decl. ¶ 18. None of the 2018 encampment cleanups listed within WPIMS  
26 CTY020222 contain data related to "solid waste-lbs collected" because WPIMS  
27 did not start tracking that information until 2019. According to Plaintiffs, no  
28

1 encampment cleanups occurred in 2018. Plaintiffs' argument may not have been  
2 intentionally misleading, but it is wrong and the mistake was clearly avoidable had  
3 Plaintiffs reviewed the City's Interrogatory Responses (that are the subject of a  
4 second motion to compel) or bothered to meet and confer regarding this issue  
5 before moving to compel.

6 Second, the Plaintiffs argue that the City produced the same documents  
7 demanded here in response to CPRA requests, citing to paragraphs 79-82 of the  
8 Myers Declaration. However, the Myers Declaration states that "the majority of  
9 this documentation consisted of Metrics sheets, not full Health Hazard Assessment  
10 reports." *See* Myers Decl. ¶ 82.

11 Third, similar to other requests, the City has not withheld documents  
12 responsive to RFP No. 33 (or 34) on the basis of privilege. However, the City  
13 pulled over a half a million emails communications and documents based on  
14 Plaintiffs' proposed custodian and search terms and approximately 475,000 of  
15 those documents were uploaded by the City's e-discovery vendor on March 30,  
16 2021. *Ursea* Decl. ¶ 43. The City generally agrees that encampment cleanups  
17 reports or related documents are not privileged, but it is possible, for example, that  
18 privileged communications between LASAN custodians and the City Attorney's  
19 Office attaching or discussing a Rapid-Response or CARE report for purposes of  
20 litigation or seeking attorney-client privileged advice. Similar to other requests,  
21 the City cannot provide a privilege log when half a million documents demanded  
22 by Plaintiffs were just recently uploaded and have not been reviewed.

23 The City Response to RFP Nos. 2 and 30 addressed Plaintiffs' contention  
24 that the City did not meet and confer regarding proportionality and the burdens  
25 imposed on the City in producing these documents. *See* City's Response to RFP  
26 Nos. 2, 30, *supra*. Based on Plaintiffs' misleading statement that WPIMS  
27 spreadsheet (CTY020222) suggested that there were over 10,000 cleanups that did  
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1 not occur, the City will respond here again regarding certain proportionality,  
2 burden and cost arguments.

3 The Wong Declaration and the City's Amended Interrogatory Responses  
4 support the City's objections regarding the burdens imposed on the City in  
5 responding to Plaintiffs' request. *See* Wong Decl. ¶¶ 16-29. In August 2020, the  
6 City identified approximately 41,734 incidents/cases within WPIMS constituting  
7 encampment cleanups for the period from April 1, 2016 to July 31, 2020. Wong  
8 Decl. ¶ 24. The City identified 32,730 incidents/cases for the period from January  
9 1, 2018 to July 31, 2020. *Id.*

10 WPIMS is an older technology that provides access to forms used to  
11 generate reports for various operations, including encampment cleanups and  
12 stormwater pollution cases, among others. Wong Decl. ¶ 17. ECIs can attach  
13 documents to the forms saved on WPIMS, such as Health Hazard Checklist,  
14 posting surveys or waste manifests. Wong Decl. ¶ 19. ECIs take pictures during  
15 encampment cleanups or compliance and a single incident/case could have  
16 hundreds of pictures. Reports contained in WPIMS generally contain several or  
17 more pictures of the cleanup, but WPIMS does not store all pictures associated  
18 with an encampment cleanup. Wong Decl. ¶ 20.

19 LSD uses the WPIMS incident/case number to identify reports and  
20 documents saved on WPIMS. Wong Decl. ¶ 21. There is no automated method  
21 for exporting documents and reports saved on WPIMS, and the reports and related  
22 documents must be identified by WPIMS incident/case number and downloaded  
23 manually. Wong Decl. ¶¶ 21, 26; Lebron Decl. ¶ 14, **Ex. 39** (City's Amended Rog  
24 Responses), Response 13(c). In order to obtain a document or report saved on  
25 WPIMS, and ECI must manually download one document or report at a time. *Id.*  
26 Other documents not stored on WPIMS are also identified by the incident/case  
27 number and must also be collected. Wong Decl. ¶ 21. Other documents could  
28

1 include hazardous and non-hazardous waste disposal records maintained by  
2 LASAN's Solids Division. Wong Decl. ¶ 21.

3 In order to search for and produce all of the requested documents regarding  
4 encampment cleanups, an ECI would need to reference a spreadsheet identifying  
5 all of incident/case numbers, the address listed for the encampment cleanup, the  
6 date and type of cleanup (posted comprehensive cleanup or compliance action),  
7 manually download reports and documents in WPIMS, conduct additional searches  
8 by incident/case number for pictures and media files not saved on WPIMS, and  
9 manually collect and assemble by incident/case number any waste disposal records  
10 or cleanup authorizations. Wong Decl. ¶ 26.

11 The City would assign one or more ECIs to collect documents relating to  
12 encampment cleanups, including posting surveys. Wong Decl. ¶ 27. LSD is  
13 currently short staffed with 12 ECI positions currently vacant as a result of budget  
14 cuts or ECI's promoting or transferring to other positions. *Id.* The work required  
15 to collect encampment cleanup reports and related documents would further strain  
16 LSD's existing resources. *Id.*

17 RFP Nos. 33-34 combined seek production of all encampment cleanup  
18 reports and related documents. The estimated of the amount of time to collect  
19 approximately 41,734 reports and related documents for encampment cleanups  
20 dating back to April 1, 2016 is 8,347 hours based on a conservative time estimate  
21 of 12 minutes to obtain documents by WPIMS incident/case numbers. Wong Decl.  
22 ¶ 28. Assuming it would take an ECI 8,347 hours to complete the document  
23 collection, **the total estimated cost to the City is approximately \$433,000.**  
24 Wong Decl. ¶ 29. This is based on an average ECI rate of \$41.27 per hour. *Id.*

25 Plaintiffs' proposal to seek all documents dating back to January 1, 2018  
26 reduces the City's estimated cost to approximately \$270,000. The estimated of the  
27 amount of time to collect approximately 32,730 encampment cleanup reports and  
28

1 related documents is approximately 6,546 hours based on the same time estimate  
2 and average ECI rate. Wong Decl. ¶¶ 28-29. The cost and burden imposed on the  
3 City's resources is substantial even under Plaintiffs' lesser demand.

4 The expense and burden imposed on the City significantly exceeds  
5 Plaintiffs' alleged damages, as disclosed in Plaintiffs' Rule 26(a) Initial  
6 Disclosures. Lebron Decl. ¶ 8, Ex. 33 (Pltf's Rule 26(a)(1) Initial Disclosures).  
7 Plaintiffs' discovery demands are not proportional to the discovery the needs of  
8 this case. *See Hoffman v. Cnty. of Los Angeles*, Case No. CV-15-03724-FMO  
9 (ASx), 2016 U.S. Dist. LEXIS 123515 \* (C.D. Cal. Jan. 5, 2016) (RFP requests for  
10 all arrest reports and records over a five period not relevant to plaintiff's Monell  
11 claim for alleged Fourth Amendment violation and not proportional to needs of  
12 case; production in response to request required "a considerable amount of time  
13 and manpower" and imposed under burden and expense relative to the minimal  
14 relevance to Monell); *Goodwin v. City of Glendora*, Case No. CV-17-3537-FMO  
15 (PLAx), 2017 U.S. Dist. LEXIS 224122, \* 15-16 (C.D. Cal. Dec. 13, 2017)  
16 (rejecting argument that discovery regarding every house in the City of Glendora  
17 that has been entered without a warrant in the past ten years ... [was] relevant and  
18 proportional to plaintiff's Monell claim where plaintiff alleged his house was  
19 entered without exigent circumstances or probable cause supporting a warrant.);  
20 *Saunders v. City of Chicago*, Case No. 12-cv-9158, 2017 U.S. Dist. LEXIS 509, \*  
21 31-32 (N.D. Ill. Jan. 4, 2017) (seeking discovery of entire law enforcement  
22 database is not proportional to plaintiff's claims or discovery needs); *Crawford v.*  
23 *Cnty. of Orange*, Case No. SA-CV-160503—DOC (DFMx), 2017 U.S. Dist.  
24 LEXIS 224164 (C.D. Cal. Oct. 13, 2017) (interrogatory seeking Monell discovery  
25 and information regarding resistance offenses over a 10-year period was not  
26 proportional and relevance of the discovery was minimal). The motion to compel  
27  
28



1 production of all documents regarding all encampment cleanups conducted  
2 Citywide should be denied.

3  
4 **REQUEST FOR PRODUCTION NO. 34:**

5 All Health Hazard Assessment Reports and related documents created by  
6 LA Sanitation to document ENCAMPMENT CLEANUPS. This includes but is not  
7 limited to Health Hazard checklists, Metrics sheets, photographs, and other  
8 DOCUMENTS related to these reports.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

10 Defendant incorporates the General Objections as though fully set forth here.  
11 Defendant objects that the Request seeks documents that are not relevant to  
12 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
13 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
14 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
15 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
16 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
17 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
18 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
19 SAC as seeking only to obtain a ruling that the City's policies and practices are  
20 unconstitutional and not that each past application of those policies and practices to  
21 its members was unconstitutional."). Defendant also objects that the proposed  
22 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
23 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
24 single incident ... to hold the City liable under *Monell*."). Defendant objects that  
25 the Request is overbroad and burdensome in seeking documents regarding  
26 encampment cleanups dating back over four years to April 1, 2016 that are  
27 unrelated, and not relevant, to Plaintiff El Bey's specific claims alleged in the  
28

1 SAC. Defendant also objects to the Request to the extent the Request seeks  
2 information protected from disclosure by the attorney-client privilege and or  
3 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
4 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
5 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
6 15-17 (C.D. Cal. Sep. 9, 2013).

7 Defendant further objects that the Request is burdensome and not  
8 proportional to the needs of the case, insofar as the burden of searching for and  
9 producing any such proposed discovery outweighs the benefit of such information  
10 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
11 search and producing documents greatly exceeds the amount in controversy for  
12 Plaintiff's alleged damages.

13 Specifically, in order to search for and obtain documents responsive to the  
14 Request, Defendant would need to search LASAN's WPIMS database to identify  
15 all incidents constituting "encampment cleanups" as defined in the Request.  
16 Defendant identified 41,734 incidents within WPIMS constituting "encampment  
17 cleanups" as defined in the Request for the period from April 1, 2016 to July 31,  
18 2020. Defendant would have to conduct a query and search parameters within  
19 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
20 for the encampment cleanup, date, incident/case number, and form of encampment  
21 cleanup. For each identified incident number, Defendant would need to generate  
22 reports within WPIMS for the encampment cleanup and collect associated health  
23 hazard checklists by incident number.

24 For each identified incident number, Defendant would need to generate  
25 reports within WPIMS for the encampment cleanup, and collect associated health  
26 hazard checklists. Defendant would then have to conduct additional searches for  
27 encampment cleanup pictures and media files by incident number that are not  
28

1 stored on WPIMS. The number of pictures associated with an encampment cleanup  
2 could exceed over 700 pictures for one incident report. Defendant would also have  
3 to manually search for, collect, and assemble related documents by incident  
4 number, including any posting surveys, hazardous-waste disposal records, non-  
5 hazardous waste disposal records, and cleanup authorizations maintained in  
6 LASAN's AMS. In addition, upon identifying specified incident/case numbers for  
7 responsive encampment cleanups, Defendant would then have to conduct searches  
8 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
9 officers by corresponding date, location, and LAPD Bureau, including searches for  
10 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
11 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
12 addition, Defendant would have to search for LAPD body worn video that may  
13 exist for identified incidents involving LAPD HOPE Officers and review such  
14 video for responsiveness to the Request. Defendant previously conducted a search  
15 for and produced such incident-specific documents for the named individual  
16 plaintiffs' specific incidents at CITY00001-2677.

17 Defendant would also need to search for potentially responsive documents  
18 or information for encampment cleanups as defined in the Request that may be  
19 maintained within LASAN's Customer Service Group's MyLA database for  
20 service requests. Defendant would have to conduct a search parameter for service  
21 requests relating to encampment cleanups as defined in the Request for the period  
22 from April 1, 2016 to the present and generate a report identifying service requests  
23 for defined encampment cleanups by location address and date range. Defendant  
24 would then need an analyst to manually review MyLA data and cross-reference  
25 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
26 query to determine potentially corresponding service requests for identified  
27 encampment cleanups. Defendant would then have to prepare a separate report  
28

1 containing identified service requests within the MyLA database corresponding to  
2 identified WPIMS incident/case numbers for encampment cleanups. In addition,  
3 for cleanups occurring after October 2019, Defendant would have to conduct  
4 searches for potentially responsive documents within the City's daily schedules  
5 issued for CARE and CARE+ operations by reviewing schedules and cross  
6 referencing the schedules with identified incident/case numbers, dates, and  
7 locations. Defendant objects that the Request seeks documents that are not  
8 reasonably accessible based on the undue burden and costs associated with  
9 searching for and producing documents responsive to this Request for the reasons  
10 described above. Without waiving any, and based on these, objections, no  
11 documents will be produced in response to this Request.

12 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

13 Defendant incorporates the General Objections as though fully set forth here.  
14 Defendant objects that the Request seeks documents that are not relevant to  
15 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
16 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
17 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
18 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
19 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
20 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
21 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
22 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
23 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
24 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
25 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
26 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
27 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
28

1 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
2 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
3 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
4 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
5 obtain a ruling that the City's policies and practices are unconstitutional and not  
6 that each past application of those policies and practices to its members was  
7 unconstitutional."). Defendant also objects that the proposed discovery is not  
8 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
9 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
10 to hold the City liable under *Monell*"). Defendant objects that the Request is  
11 overbroad and burdensome in seeking documents regarding encampment cleanups  
12 dating back over four years to April 1, 2016 that are unrelated, and not relevant, to  
13 Plaintiffs' specific claims alleged in the SAC. Defendant also objects to the  
14 Request to the extent the Request seeks information protected from disclosure by  
15 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
16 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
17 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
18 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

19 Defendant further objects that the Request is burdensome and not  
20 proportional to the needs of the case, insofar as the burden of searching for and  
21 producing any such proposed discovery outweighs the benefit of such information  
22 for Plaintiffs' claims and Defendant's costs or expense in conducting the search  
23 and producing documents greatly exceeds the amount in controversy for Plaintiff's  
24 alleged damages.

25 Specifically, in order to search for and obtain documents responsive to the  
26 Request, Defendant would need to search LASAN's WPIMS database to identify  
27 all incidents constituting "encampment cleanups" as defined in the Request.  
28

1 Defendant identified 41,734 incidents within WPIMS constituting “encampment  
2 cleanups” as defined in the Request for the period from April 1, 2016 to July 31,  
3 2020. Defendant would have to conduct a query and search parameters within  
4 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
5 for the encampment cleanup, date, incident/case number, and form of encampment  
6 cleanup. For each identified incident number, Defendant would need to generate  
7 reports within WPIMS for the encampment cleanup, and collect associated health  
8 hazard checklists by incident number.

9 For each identified incident number, Defendant would need to generate  
10 reports within WPIMS for the encampment cleanup, and collect associated health  
11 hazard checklists. Defendant would then have to conduct additional searches for  
12 encampment cleanup pictures and media files by incident number that are not  
13 stored on WPIMS. The number of pictures associated with an encampment cleanup  
14 could exceed over 700 pictures for one incident report. Defendant would also have  
15 to manually search for, collect, and assemble related documents by incident  
16 number, including any posting surveys, hazardous-waste disposal records, non-  
17 hazardous waste disposal records, and cleanup authorizations maintained in  
18 LASAN’s AMS. In addition, upon identifying specified incident/case numbers for  
19 responsive encampment cleanups, Defendant would then have to conduct searches  
20 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
21 officers by corresponding date, location, and LAPD Bureau, including searches for  
22 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
23 Sergeant’s Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
24 addition, Defendant would have to search for LAPD body worn video that may  
25 exist for identified incidents involving LAPD HOPE Officers and review such  
26 video for responsiveness to the Request. Defendant previously conducted a search  
27  
28



1 for and produced such incident-specific documents for the named individual  
2 plaintiffs' specific incidents at CITY00001-2677.

3 Defendant would also need to search for potentially responsive documents  
4 or information for encampment cleanups as defined in the Request that may be  
5 maintained within LASAN's Customer Service Group's MyLA database for  
6 service requests. Defendant would have to conduct a search parameter for service  
7 requests relating to encampment cleanups as defined in the Request for the period  
8 from April 1, 2016 to the present and generate a report identifying service requests  
9 for defined encampment cleanups by location address and date range. Defendant  
10 would then need an analyst to manually review MyLA data and cross-reference  
11 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
12 query to determine potentially corresponding service requests for identified  
13 encampment cleanups. Defendant would then have to prepare a separate report  
14 containing identified service requests within the MyLA database corresponding to  
15 identified WPIMS incident/case numbers for encampment cleanups. In addition,  
16 for cleanups occurring after October 2019, Defendant would have to conduct  
17 searches for potentially responsive documents within the City's daily schedules  
18 issued for CARE and CARE+ operations by reviewing schedules and cross  
19 referencing the schedules with identified incident/case numbers, dates, and  
20 locations. Defendant objects that the Request seeks documents that are not  
21 reasonably accessible based on the undue burden and costs associated with  
22 searching for and producing documents responsive to this Request for the reasons  
23 described above. Without waiving any, and based on these, objections, Defendant  
24 responds that Defendant produced LASAN health hazard assessments,  
25 encampment cleanup reports, photographs and documents responsive to this  
26 Request for the individual Plaintiffs' specific alleged incidents at CTY000001-

1 2677, but Defendant objects to further production of documents responsive to this  
2 Request.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

4 **NO. 34:**

5 The documents sought in RFP 34 are the same documents as those requested  
6 in RFP 33, but are intended to capture reports for noticed, Comprehensive  
7 Cleanups. For the sake of efficiency, Plaintiffs incorporate by reference the  
8 arguments from RFP 33 here.

9 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**

10 **NO. 34:**

11 Plaintiffs' Response to RFP No. 34 incorporated by reference Plaintiffs'  
12 Response to RFP No. 33. The City does the same and incorporates by reference  
13 the City's Response to RFP No. 33 in its entirety.

14  
15 **REQUEST FOR PRODUCTION NO. 35:**

16 All reports, summaries, statistics, analysis or data compilations related to  
17 ENCAMPMENT CLEANUPS.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

19 Defendant incorporates the General Objections as though fully set forth here.  
20 Defendant objects that the Request seeks documents that are not relevant to  
21 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
22 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
23 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
24 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
25 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
26 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
27 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
28

1 SAC as seeking only to obtain a ruling that the City's policies and practices are  
2 unconstitutional and not that each past application of those policies and practices to  
3 its members was unconstitutional."). Defendant also objects that the proposed  
4 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
5 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
6 single incident ... to hold the City liable under *Monell*."). Defendant objects that  
7 the Request is overbroad and burdensome in seeking documents regarding  
8 encampment cleanups dating back over four years to April 1, 2016 that are  
9 unrelated, and not relevant, to Plaintiff El Bey's specific claims alleged in the  
10 SAC. Defendant also objects to the Request to the extent the Request seeks  
11 information protected from disclosure by the attorney-client privilege and or  
12 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
13 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
14 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
15 15-17 (C.D. Cal. Sep. 9, 2013).

16 Defendant further objects that the Request is burdensome and not  
17 proportional to the needs of the case, insofar as the burden of searching for and  
18 producing any such proposed discovery outweighs the benefit of such information  
19 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
20 search and producing documents greatly exceeds the amount in controversy for  
21 Plaintiff's alleged damages.

22 Specifically, in order to search for and obtain documents responsive to the  
23 Request, Defendant would need to search LASAN's WPIMS database to identify  
24 all incidents constituting "encampment cleanups" as defined in the Request.  
25 Defendant identified 41,734 incidents within WPIMS constituting "encampment  
26 cleanups" as defined in the Request for the period from April 1, 2016 to July 31,  
27 2020. Defendant would have to conduct a query and search parameters within  
28

1 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
2 for the encampment cleanup, date, incident/case number, and form of encampment  
3 cleanup. For each identified incident number, Defendant would need to generate  
4 reports within WPIMS for the encampment cleanup, and collect associated health  
5 hazard checklists by incident number.

6 For each identified incident number, Defendant would need to generate  
7 reports within WPIMS for the encampment cleanup, and collect associated health  
8 hazard checklists. Defendant would then have to conduct additional searches for  
9 encampment cleanup pictures and media files by incident number that are not  
10 stored on WPIMS. The number of pictures associated with an encampment cleanup  
11 could exceed over 700 pictures for one incident report. Defendant would also have  
12 to manually search for, collect, and assemble related documents by incident  
13 number, including any posting surveys, hazardous-waste disposal records, non-  
14 hazardous waste disposal records, and cleanup authorizations maintained in  
15 LASAN's AMS. In addition, upon identifying specified incident/case numbers for  
16 responsive encampment cleanups, Defendant would then have to conduct searches  
17 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
18 officers by corresponding date, location, and LAPD Bureau, including searches for  
19 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
20 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
21 addition, Defendant would have to search for LAPD body worn video that may  
22 exist for identified incidents involving LAPD HOPE Officers and review such  
23 video for responsiveness to the Request. Defendant previously conducted a search  
24 for and produced such incident-specific documents for the named individual  
25 plaintiffs' specific incidents at CITY00001-2677.

26 Defendant would also need to search for potentially responsive documents  
27 or information for encampment cleanups as defined in the Request that may be  
28

1 maintained within LASAN's Customer Service Group's MyLA database for  
2 service requests. Defendant would have to conduct a search parameter for service  
3 requests relating to encampment cleanups as defined in the Request for the period  
4 from April 1, 2016 to the present and generate a report identifying service requests  
5 for defined encampment cleanups by location address and date range. Defendant  
6 would then need an analyst to manually review MyLA data and cross-reference  
7 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
8 query to determine potentially corresponding service requests for identified  
9 encampment cleanups. Defendant would then have to prepare a separate report  
10 containing identified service requests within the MyLA database corresponding to  
11 identified WPIMS incident/case numbers for encampment cleanups.

12 In addition, Defendant would have to search for all statistical analysis or  
13 data compilations relating to encampment cleanups dating back to April 1, 2016.  
14 Defendant objects that the Request seeks documents that are not reasonably  
15 accessible based on the undue burden and costs associated with searching for and  
16 producing documents responsive to this Request for the reasons described above.  
17 Without waiving any, and based on these, objections, no documents will be  
18 produced in response to this Request.

19 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

20 Defendant incorporates the General Objections as though fully set forth here.  
21 Defendant objects that the Request seeks documents that are not relevant to  
22 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
23 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
24 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
25 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
26 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
27 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
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1 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
2 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
3 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
4 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
5 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
6 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
7 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
8 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
9 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
10 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
11 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
12 obtain a ruling that the City's policies and practices are unconstitutional and not  
13 that each past application of those policies and practices to its members was  
14 unconstitutional."). Defendant also objects that the proposed discovery is not  
15 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
16 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
17 to hold the City liable under *Monell*"). Defendant objects that the Request is  
18 overbroad and burdensome in seeking documents regarding encampment cleanups  
19 dating back over four years to April 1, 2016 that are unrelated, and not relevant, to  
20 Plaintiffs' specific claims alleged in the SAC. Defendant also objects to the  
21 Request to the extent the Request seeks information protected from disclosure by  
22 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
23 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
24 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
25 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

26 Defendant further objects that the Request is burdensome and not  
27 proportional to the needs of the case, insofar as the burden of searching for and  
28



1 producing any such proposed discovery outweighs the benefit of such information  
2 for Plaintiffs' claims and Defendant's costs or expense in conducting the search  
3 and producing documents greatly exceeds the amount in controversy for Plaintiff's  
4 alleged damages.

5 Specifically, in order to search for and obtain documents responsive to the  
6 Request, Defendant would need to search LASAN's WPIMS database to identify  
7 all incidents constituting "encampment cleanups" as defined in the Request.  
8 Defendant identified 41,734 incidents within WPIMS constituting "encampment  
9 cleanups" as defined in the Request for the period from April 1, 2016 to July 31,  
10 2020. Defendant would have to conduct a query and search parameters within  
11 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
12 for the encampment cleanup, date, incident/case number, and form of encampment  
13 cleanup. For each identified incident number, Defendant would need to generate  
14 reports within WPIMS for the encampment cleanup, and collect associated health  
15 hazard checklists by incident number.

16 For each identified incident number, Defendant would need to generate  
17 reports within WPIMS for the encampment cleanup, and collect associated health  
18 hazard checklists. Defendant would then have to conduct additional searches for  
19 encampment cleanup pictures and media files by incident number that are not  
20 stored on WPIMS. The number of pictures associated with an encampment cleanup  
21 could exceed over 700 pictures for one incident report. Defendant would also have  
22 to manually search for, collect, and assemble related documents by incident  
23 number, including any posting surveys, hazardous-waste disposal records, non-  
24 hazardous waste disposal records, and cleanup authorizations maintained in  
25 LASAN's AMS. In addition, upon identifying specified incident/case numbers for  
26 responsive encampment cleanups, Defendant would then have to conduct searches  
27 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
28

1 officers by corresponding date, location, and LAPD Bureau, including searches for  
2 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
3 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
4 addition, Defendant would have to search for LAPD body worn video that may  
5 exist for identified incidents involving LAPD HOPE Officers and review such  
6 video for responsiveness to the Request. Defendant previously conducted a search  
7 for and produced such incident-specific documents for the named individual  
8 plaintiffs' specific incidents at CITY00001-2677.

9 Defendant would also need to search for potentially responsive documents  
10 or information for encampment cleanups as defined in the Request that may be  
11 maintained within LASAN's Customer Service Group's MyLA database for  
12 service requests. Defendant would have to conduct a search parameter for service  
13 requests relating to encampment cleanups as defined in the Request for the period  
14 from April 1, 2016 to the present and generate a report identifying service requests  
15 for defined encampment cleanups by location address and date range. Defendant  
16 would then need an analyst to manually review MyLA data and cross-reference  
17 incident/case numbers, addresses, and dates identified by Defendant's WPIMS  
18 query to determine potentially corresponding service requests for identified  
19 encampment cleanups. Defendant would then have to prepare a separate report  
20 containing identified service requests within the MyLA database corresponding to  
21 identified WPIMS incident/case numbers for encampment cleanups.

22 In addition, Defendant would have to search for all statistical analysis or  
23 data compilations relating to encampment cleanups dating back to April 1, 2016.  
24 Defendant would have to search for weekly service request reports regarding  
25 encampment cleanups over a four-year period, quarterly reports to the CAO over a  
26 four-year period, LAPD reports over a four-year period, and any UHRC reports  
27 over dating back to 2018. Defendant objects that the Request seeks documents that  
28

1 are not reasonably accessible based on the undue burden and costs associated with  
2 searching for and producing documents responsive to this Request for the reasons  
3 described above. Without waiving any, and based on these, objections, the  
4 Defendant objected to producing documents responsive to this Request but remains  
5 willing to conduct a further meet-and-confer discussion with Plaintiffs regarding a  
6 narrowed request for specific reports or data compilations.

7 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
8 **NO. 35:**

9 Plaintiffs seek reports, statistics, analysis, and other documents related to  
10 Encampment Cleanups. This would include, for example, any reports analyzing  
11 the effectiveness of the cleanups, and statistics generated about how often cleanups  
12 are conducted. As with all other requests, the City initially objected that the  
13 documents sought are neither relevant nor proportionate to the needs of the case.<sup>22</sup>  
14 Even after meeting and conferring, Defendant refused to produce any documents  
15 responsive to the request. A month later, the City indicated its willingness to meet  
16 and confer about "a narrowed request for specific reports or data compilations." In  
17 October, the City produced Amended responses, which maintained the same  
18 burden objections, in spite of Plaintiffs' clarification of the scope of the request.  
19 When the parties met and conferred, Defendant indicated it was willing to provide  
20 raw data from January 1, 2018 to November 2020 from the three databases it  
21 represented it used to collect LA Sanitation data. It otherwise did not agree to  
22 produce any additional responsive documents.

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23  
24 <sup>22</sup> In its initial responses, Defendant interpreted the request to call for the  
25 production of documentation of individual cleanups, such as those reports  
26 requested in RFPs 33 and 34. Plaintiffs clarified that the request did not include  
27 these documents, but instead was intended to apply to reports and analysis about  
28 Encampment Cleanups more generally. The City still refused to provide  
responsive documents. In its amended response, it continued to maintain its  
proportionality objection primarily based on the purported burden of producing  
these documents.

1 In December, Defendant inexplicably produced approximately 550 black  
2 and white PDFs (totaling approximately 4000 pages) of “Data Center reports”  
3 created by LA Sanitation, compiling information about, among other data,  
4 Encampment Cleanups. The City did not provide an amended response to this  
5 request, nor did it provide any explanation why it was producing these specific  
6 documents, what criteria it used to identify these documents, or whether it was  
7 withholding any other documents in its possession, custody, or control that were  
8 responsive to this request.

9 **a. Reports and Analysis Regarding the City’s Encampment Cleanup**  
10 **Program are Relevant**

11 How the City conducts Encampment Cleanups is clearly relevant. As  
12 discussed in detail above, one of the main issues in this case is the way the City  
13 conducts encampment cleanups. Reports and analysis conducted about these  
14 Cleanups include information about, for example, the existence of customs,  
15 policies, and practices; Plaintiffs’ claims that the City fails to provide sufficient  
16 due process and the City’s claim that no additional process is feasible; and theories  
17 of *Monell* liability. Defendant’s objection to this request, on the basis of relevance  
18 is without any legal support. Myers Decl. ¶ 4 & Exh. C at 73-77.

19 **b. Defendant’s Written Response Does Not Comply With Rule 34**

20 The City’s Amended Response to this RFP does not comply in any way with  
21 Federal Rule of Civil Procedure Rule 34(b)(2). In its Amended Response,  
22 Defendant states only that “Defendant objected to producing documents responsive  
23 to this Request but remains willing to conduct a further meet-and-confer discussion  
24 with Plaintiffs regarding a narrowed request for specific reports or data  
25 compilations.”

26 Although the parties did meet and confer about the City’s willingness to  
27 produce data in response to Plaintiffs’ requests, the City stated only generally that  
28 it was willing to produce data from three databases, WPIMS, AMS and My311.

1    Thereafter, defense counsel indicated that they had “identified and reviewed  
2    additional documents responsive to Plaintiffs’ requests, including organizational  
3    charts, job descriptions, tonnage reports, cleanup reports to the Mayor’s Office and  
4    powerpoints. [They were] continuing [their] investigation into what ha[d] been  
5    collected and whatever may be left to collect; [and they would] continue to review  
6    and produce as soon as possible on a rolling basis.” Myers Decl. ¶ 54 & Exh. AH.

7           Despite Plaintiffs’ request for clarification, the City simply produced  
8    approximately 550 black and white PDFs of weekly reports (totaling  
9    approximately 4000 pages of documents). The City failed to provide any  
10   explanation why it was producing these specific documents or whether it was  
11   withholding any other documents in its possession, custody, or control that were  
12   responsive to this request. In fact, the City failed to provide any further clarifying  
13   information at all. Myers Decl., ¶ 55. This is clearly impermissible under Rule 34.

14           Under Rule 34, “even if the discovery requested was overbroad, [the City]  
15   had an obligation at a minimum to respond to the requests to the extent that they  
16   sought non-objectionable information or documents.” *In re Rivera*, 2017 U.S.  
17   Dist. LEXIS 229538, at \*17. It also requires the objecting party to “state whether  
18   any responsive materials are being withheld on the basis of [an  
19   asserted] objection,” and to comply with the requirement that “[a]n objection to  
20   part of a request must specify the part and permit inspection of the rest.” Fed. R.  
21   Civ. P. 34(b)(2)(C).

22           The City has done neither. In this case, although the City has produced  
23   some documents likely responsive to this request, it has provided no information  
24   about why it was producing these documents and whether and to what extent it is  
25   withholding documents on the basis of its objections. As such, Plaintiffs have been  
26   “[left] . . . in the dark”, which “is precisely the situation Rule 34(b)(2) is designed  
27   to prevent.” *DeSilva*, 2020 WL 5947827, at \*9 (compelling production of  
28

documents and responses compliant with Rule 34); *see also* Rule 34, Advisory Committee’s Note to 2015 Amendment (Rule 34(b)(2)(C) (amendment was added to “end the confusion that frequently arises when a producing party states several objections and still produces information”). It is not enough for Defendant to state what it is producing; it must provide sufficient information to “alert other parties to the fact that documents have been withheld and thereby facilitate an informed discussion of the objection.” 2015 Amendment Adv. Comm. Note to Fed. R. Civ. P. 34. *D.C.*, 2016 U.S. Dist. LEXIS 197240, at \*5. Likewise, the City has continued to state that it will produce documents on a “rolling basis,” which is also impermissible under Rule 34(b)(2)(B). *See Maiorano*, 2017 WL 4792380, at \*2.

As with other requests, Plaintiffs’ concern about the sufficiency of Defendant’s written responses and production is not merely speculative. For example, although the City appeared in a subsequent interrogatory response to indicate that the Data Center reports are the only monthly reports pulled from the databases, Plaintiffs have since received additional monthly “tonnage reports” generated by LA Sanitation and provided to the Council offices that were never identified by Defendants, let alone produced in response to this RFP. *See Riskin Decl.*, ¶ 6 & Exh. B.

Plaintiffs have also identified, for example, a 2018 report from LA Sanitation that analyzes Encampment Cleanups and the enforcement of LAMC 56.11. The document was not produced to Plaintiffs, even though the City produced similar reports, and the document is clearly responsive to Plaintiffs’ request. *See Myers Decl.*, ¶ 73 & Exh. AQ; *see also Myers Decl.*, Exh. 83 & Exh. AT (reports produced by the City in response to CPRAs that were not produced here, but are relevant and responsive to these requests). As with numerous other requests, Plaintiffs have no way of knowing why the City chose to produce the documents it produced and not others. The failure to provide a written response



1 consistent with Rule 34 and the failure to produce documents responsive to the  
2 request is sufficient basis to grant Plaintiffs' motion to compel production of all  
3 documents responsive to this request.

4 **c. Plaintiffs' Request is Not Overbroad**

5 Defendant asserts that the request is overbroad "in seeking documents  
6 regarding encampment cleanups dating back over four years to April 1, 2016 that  
7 are unrelated, and not relevant, to Plaintiff El Bey's specific claims alleged in the  
8 SAC." As discussed in detail, two years and eight months prior to the Specific  
9 Incidents is reasonable, given that the date corresponds to when LAMC 56.11 was  
10 amended, and it is especially reasonable given the extent to which the City's  
11 Encampment Cleanups have been subject to judicial scrutiny. *See* SAC at ¶¶ 17-  
12 19, Dkt. 43, (describing the history of claims against the City for similar violations  
13 to the ones raised by Plaintiffs); *see also Thomas*, 715 F. Supp. 2d at 1032  
14 (granting a request for information going back nearly thirty years, where "in the  
15 context of th[e] action," the requested information was "necessary to conduct a  
16 comparative analysis of the operation" at issue in the litigation and such analysis  
17 was "clearly relevant to Petitioner's claims"). The request not only identifies a  
18 discrete topic and is time-limited, but also relates to a specific type of document  
19 related to the discrete topic. As such, the request is narrow, and there is no basis  
20 for the City's refusal to produce responsive documents.

21 **d. Plaintiffs' Narrow Request is Proportional to the Needs of the**  
22 **Case**

23 To the extent Defendant is withholding any documents on the basis that the  
24 request is not proportional to the needs of this case, Defendant's objection and  
25 subsequent meet and confer efforts provided no information "clarifying,  
26 explaining, and supporting its objection" that it is not proportional to the needs of  
27 the case, based on the factors outlined in Rule 26. *Duran*, 258 F.R.D. at 378.  
28 Applying these factors and the appropriate scope of this litigation, the request is

1 proportional to the needs of the case. As discussed in detail above, the issues at  
2 stake in this litigation are of constitutional significance; the amount in controversy  
3 is largely irrelevant given that Plaintiffs primarily seek prospective relief to put an  
4 end to the City's unconstitutional practices; the City of Los Angeles has far more  
5 resources than the seven unhoused individuals whose belongings were seized and  
6 the volunteer organization whose resources go to replacing those belongings; and  
7 Defendant has access to information not publicly available, such as internal  
8 analysis and reports *See supra*, Plaintiffs' Argument re: RFP No. 2. The other  
9 factors also weigh heavily in Plaintiffs' favor. *See Fed. R. Civ. P. 26(b)(1)*.

10 **i. Importance of the discovery in resolving the issues**

11 The documents sought by Plaintiffs are related to one of the matters that is  
12 most central to this case: how the City conducts Encampment Cleanups. Reports  
13 and analysis related to those issues could provide critical evidence about, for  
14 example, the existence of customs, policies or practices or the City's awareness  
15 about and failure to address the issues raised in this case. Those issues are critical  
16 to *Monell* liability and Plaintiffs' claims for prospective relief, which as noted  
17 above, are at the center of this case.

18 **ii. Whether the burden or expense of the proposed**  
19 **discovery outweighs its likely benefit**

20 Defendant objects that the burden of producing documents responsive to  
21 Plaintiffs' request is too high, yet the only burden the City identifies in producing  
22 documents Plaintiffs have clarified are responsive to this request is literally the  
23 burden that comes from searching for documents responsive to any request. As the  
24 City concedes, the normal discovery steps necessary to conduct a "reasonable  
25 inquiry" should be sufficient to identify reports and analysis related to this request,  
26 especially since the request goes back only four years and the responsive  
27 documents would likely be contained within a few discrete departments within the  
28 City. *See In re Citimortgage*, 2012 WL 10450139, at \*4; *see also* Plaintiffs'

1 Argument re: RFP 16. Yet because the City continues to object to the relevance of  
2 these documents, it refuses to concede that any burden is proportionate to the needs  
3 of this case. The City's refusal to conduct even a reasonable inquiry to identify  
4 responsive documents is not defensible.

5 **e. The City has Waived its Other Objections**

6 The City includes a boilerplate objection on the basis of attorney-client  
7 privilege and work product doctrines, but fails to identify in any way whether or to  
8 what extent it is actually withholding any documents on the basis of privilege. In  
9 the seven months since the City produced responsive documents, the City has  
10 refused to produce a privilege log, despite repeated requests. It has therefore  
11 waived any privilege. *Burlington Northern & Santa Fe Ry. Co.*, 408 F.3d at 1149.

12 Likewise, the City provides no information here or anywhere to clarify why  
13 or even whether any of its other general objections apply. As such, it has waived  
14 them here. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

15 **f. Plaintiffs' Request for Relief**

16 Plaintiffs are entitled to an order compelling the City to produce  
17 all documents responsive to RFP No. 35 within 21 days or, if the City asserts it has  
18 produced all documents responsive to the request, compelling Defendant to  
19 provide a complete, explicit response as to the search conducted to identify and  
20 produce responsive documents and to attest to the finality of its production, as  
21 required by Rule 34.

22 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**  
23 **NO. 35:**

24 For the reasons set forth in the City's arguments as to RFPs 1, 30 and 33, the  
25 documents Plaintiffs seek are not relevant and the request is not proportional to the  
26 needs of this case. The City incorporates by reference the City's Response to RFPs  
27 1, 30 and 33 in their entirety.  
28

**REQUEST FOR PRODUCTION NO. 36:**

All reports, summaries, statistics, analysis or data compilations related to enforcement of LAMC 56.11.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request seeks documents that are not relevant to Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks documents that are not relevant to any named-plaintiffs' claims as alleged in the SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant objects that the Request is overbroad and burdensome in seeking documents regarding encampment cleanups involving LAMC 56.11 enforcement actions dating back over four years to April 1, 2016 that are unrelated, and not relevant, to Plaintiff El-Bey's specific claims alleged in the SAC. Defendant also objects to the Request to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal.

2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

Defendant further objects that the Request is burdensome and not proportional to the needs of the case, insofar as the burden of searching for and producing any such proposed discovery outweighs the benefit of such information for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the search and producing documents greatly exceeds the amount in controversy for Plaintiff's alleged damages.

Specifically, in order to search for and obtain documents responsive to the Request, Defendant would need to search LASAN's WPIMS database to identify all incidents constituting "encampment cleanups" as defined in the Request. Defendant identified 41,734 incidents within WPIMS constituting "encampment cleanups" as defined in the Request for the period from April 1, 2016 to July 31, 2020. Defendant would have to conduct a query and search parameters within WPIMS to generate a report identifying all 41,734 incidents by the address listed for the encampment cleanup, date, incident/case number, and form of encampment cleanup. For each identified incident number, Defendant would need to generate reports within WPIMS for the encampment cleanup involving LAMC 56.11 enforcement actions, and collect associated health hazard checklists by incident number.

For each identified incident number, Defendant would need to generate reports within WPIMS for the encampment cleanup, and collect associated health hazard checklists. Defendant would then have to conduct additional searches for encampment cleanup pictures and media files by incident number that are not stored on WPIMS. The number of pictures associated with an encampment cleanup could exceed over 700 pictures for one incident report. Defendant would also have to manually search for, collect, and assemble related documents by incident

1 number, including any posting surveys, hazardous-waste disposal records, non-  
2 hazardous waste disposal records, and cleanup authorizations maintained in  
3 LASAN's AMS. In addition, upon identifying specified incident/case numbers for  
4 responsive encampment cleanups, Defendant would then have to conduct searches  
5 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
6 officers by corresponding date, location, and LAPD Bureau, including searches for  
7 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
8 Sergeant's Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
9 addition, Defendant would have to search for LAPD body worn video that may  
10 exist for identified incidents involving LAPD HOPE Officers and review such  
11 video for responsiveness to the Request. Defendant previously conducted a search  
12 for and produced such incident-specific documents for the named individual  
13 plaintiffs' specific incidents at CITY00001-2677.

14 Defendant would also need to search for potentially responsive documents  
15 or information for encampment cleanups involving LAMC 56.11 enforcement  
16 actions as defined in the Request that may be maintained within LASAN's  
17 Customer Service Group's MyLA database for service requests. Defendant would  
18 have to conduct a search parameter for service requests relating to encampment  
19 cleanups as defined in the Request for the period from April 1, 2016 to the present  
20 and generate a report identifying service requests for defined encampment  
21 cleanups by location address and date range. Defendant would then need an analyst  
22 to manually review MyLA data and cross-reference incident/case numbers,  
23 addresses, and dates identified by Defendant's WPIMS query to determine  
24 potentially corresponding service requests for identified encampment cleanups.  
25 Defendant would then have to prepare a separate report containing identified  
26 service requests within the MyLA database corresponding to identified WPIMS  
27 incident/case numbers for encampment cleanups.  
28



1 In addition, Defendant would have to search for all statistical, analysis or  
2 data compilations relating to encampment cleanups dating back to April 1, 2016.  
3 Defendant would have to search for weekly service request reports regarding  
4 encampment cleanups over a four-year period, quarterly reports to CAO over a  
5 four-year period, LAPD reports over a four-year period, and any UHRC reports  
6 over dating back to 2018. Defendant objects that the Request seeks documents that  
7 are not reasonably accessible based on the undue burden and costs associated with  
8 searching for and producing documents responsive to this Request for the reasons  
9 described above. Without waiving any, and based on these, objections, no  
10 documents will be produced in response to this Request.

11 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

12 Defendant incorporates the General Objections as though fully set forth here.  
13 Defendant objects that the Request seeks documents that are not relevant to  
14 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
15 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
16 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
17 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
18 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
19 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
20 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
21 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
22 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
23 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
24 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
25 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
26 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
27 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
28

1 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
2 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
3 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
4 obtain a ruling that the City's policies and practices are unconstitutional and not  
5 that each past application of those policies and practices to its members was  
6 unconstitutional."). Defendant also objects that the proposed discovery is not  
7 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
8 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
9 to hold the City liable under *Monell*"). Defendant objects that the Request is  
10 overbroad and burdensome in seeking documents regarding encampment cleanups  
11 involving LAMC 56.11 enforcement actions dating back over four years to April 1,  
12 2016 that are unrelated, and not relevant, to Plaintiffs' specific claims alleged in  
13 the SAC. Defendant also objects to the Request to the extent the Request seeks  
14 information protected from disclosure by the attorney-client privilege and or  
15 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
16 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
17 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
18 15-17 (C.D. Cal. Sep. 9, 2013).

19 Defendant further objects that the Request is burdensome and not  
20 proportional to the needs of the case, insofar as the burden of searching for and  
21 producing any such proposed discovery outweighs the benefit of such information  
22 for Plaintiffs' claims and Defendant's costs or expense in conducting the search  
23 and producing documents greatly exceeds the amount in controversy for Plaintiff's  
24 alleged damages.

25 Specifically, in order to search for and obtain documents responsive to the  
26 Request, Defendant would need to search LASAN's WPIMS database to identify  
27 all incidents constituting "encampment cleanups" as defined in the Request.  
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1 Defendant identified 41,734 incidents within WPIMS constituting “encampment  
2 cleanups” as defined in the Request for the period from April 1, 2016 to July 31,  
3 2020. Defendant would have to conduct a query and search parameters within  
4 WPIMS to generate a report identifying all 41,734 incidents by the address listed  
5 for the encampment cleanup, date, incident/case number, and form of encampment  
6 cleanup. For each identified incident number, Defendant would need to generate  
7 reports within WPIMS for the encampment cleanup involving LAMC 56.11  
8 enforcement actions, and collect associated health hazard checklists by incident  
9 number.

10 For each identified incident number, Defendant would need to generate  
11 reports within WPIMS for the encampment cleanup, and collect associated health  
12 hazard checklists. Defendant would then have to conduct additional searches for  
13 encampment cleanup pictures and media files by incident number that are not  
14 stored on WPIMS. The number of pictures associated with an encampment cleanup  
15 could exceed over 700 pictures for one incident report. Defendant would also have  
16 to manually search for, collect, and assemble related documents by incident  
17 number, including any posting surveys, hazardous-waste disposal records, non-  
18 hazardous waste disposal records, and cleanup authorizations maintained in  
19 LASAN’s AMS. In addition, upon identifying specified incident/case numbers for  
20 responsive encampment cleanups, Defendant would then have to conduct searches  
21 for potentially responsive LAPD records for any incidents involving LAPD HOPE  
22 officers by corresponding date, location, and LAPD Bureau, including searches for  
23 LAPD Daily Field Activity Reports (DFAR), Watch Commander Daily Reports,  
24 Sergeant’s Daily Reports, and LAPD Computer Aided Dispatch (CAD) Reports. In  
25 addition, Defendant would have to search for LAPD body worn video that may  
26 exist for identified incidents involving LAPD HOPE Officers and review such  
27 video for responsiveness to the Request. Defendant previously conducted a search  
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1 for and produced such incident-specific documents for the named individual  
2 plaintiffs' specific incidents at CITY00001-2677.

3 Defendant would also need to search for potentially responsive documents  
4 or information for encampment cleanups involving LAMC 56.11 enforcement  
5 actions as defined in the Request that may be maintained within LASAN's  
6 Customer Service Group's MyLA database for service requests. Defendant would  
7 have to conduct a search parameter for service requests relating to encampment  
8 cleanups as defined in the Request for the period from April 1, 2016 to the present  
9 and generate a report identifying service requests for defined encampment  
10 cleanups by location address and date range. Defendant would then need an analyst  
11 to manually review MyLA data and cross-reference incident/case numbers,  
12 addresses, and dates identified by Defendant's WPIMS query to determine  
13 potentially corresponding service requests for identified encampment cleanups.  
14 Defendant would then have to prepare a separate report containing identified  
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18 data compilations relating to encampment cleanups dating back to April 1, 2016.  
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20 encampment cleanups over a four-year period, quarterly reports to CAO over a  
21 four-year period, LAPD reports over a four-year period, and any UHRC reports  
22 over dating back to 2018. Defendant objects that the Request seeks documents that  
23 are not reasonably accessible based on the undue burden and costs associated with  
24 searching for and producing documents responsive to this Request for the reasons  
25 described above. Without waiving any, and based on these, objections, the  
26 Defendant objected to producing documents responsive to this Request but remains  
27  
28

1 willing to conduct a further meet-and-confer discussion with Plaintiffs regarding a  
2 narrowed request for specific reports or data compilations.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 36:**

5 Similarly to RFP 35, Plaintiffs seek reports, statistics, analysis, and other  
6 documents related to the enforcement of LAMC 56.11. This would include, for  
7 example, any reports analyzing the enforcement of various provisions of the  
8 ordinance, statistics generated about how often the ordinance is enforced, and any  
9 issues with enforcement. It could also include, for example, any analysis or reports  
10 that discuss the need to adjust or change the City's enforcement of the ordinance.  
11 As with all other requests, the City initially objected that the documents sought are  
12 neither relevant nor proportionate to the needs of the case.<sup>23</sup> Even after meeting  
13 and conferring, Defendant refused to produce any documents responsive to the  
14 request. A month later, the City indicated its willingness to meet and confer about  
15 "a narrowed request for specific reports or data compilations." In October, the  
16 City produced Amended responses, which maintained the same burden objections,  
17 in spite of Plaintiffs' clarification of the scope of the request. When the parties met  
18 and conferred about the production of documents, Defendant indicated it was  
19 willing to provide raw data from January 1, 2018 to November 2020 from an  
20 LAPD database that tracks arrests. Although this leaves out a significant number  
21 of clearly relevant documents, the City has not agreed to produce any additional  
22 responsive documents.

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23  
24 <sup>23</sup> In its initial responses, Defendant initially interpreted the request to call for  
25 the production of documentation of individual cleanups, such as those reports  
26 requested in RFPs 33 and 34, as it had done with RFP 35. Plaintiffs clarified that  
27 the request did not include these documents, but instead was intended to apply to  
28 reports and analysis about the enforcement of 56.11 more generally. The City still  
refused to provide responsive documents. In its amended responses, it maintained  
its proportionality objection was primarily based on the purported burden of  
producing the documentation related to encampment cleanups.

1           **a.       Reports and Analysis Regarding the City's Enforcement of**  
2           **LAMC 56.11 are Relevant**

3           How the City enforces LAMC 56.11 is clearly relevant. Plaintiffs bring an  
4 as-applied challenge to LAMC 56.11; thus, how the City enforces the ordinance is  
5 at the center of this case. As such, reports and analysis conducted about the City's  
6 enforcement practices are highly relevant and in fact, critically important to core  
7 issues in the case. The suggestion otherwise is utterly lacking in legal support.

8           **b.       Defendant's Written Response Does Not Comply With Rule 34**

9           The City's Amended Response to this RFP does not comply in any way with  
10 Federal Rule of Civil Procedure Rule 34(b)(2). In its Amended Response,  
11 Defendant states only that "Defendant objected to producing documents responsive  
12 to this Request but remains willing to conduct a further meet-and-confer discussion  
13 with Plaintiffs regarding a narrowed request for specific reports or data  
14 compilations."

15           When Plaintiffs attempted to meet and confer, the City was willing to  
16 produce only raw data from the City's database about the City's issuance of  
17 Release from Custody citations (RFCs) for violations of LAMC 56.11, which the  
18 City purported to produce in December 2020. Myers Decl., ¶ 47, Ex. AA. But  
19 even this limited production was incomplete. Although the City did not indicate it  
20 was withholding any of the data collected on RFCs, the spreadsheet produced to  
21 Plaintiffs excludes critical columns of data, including the citation numbers for the  
22 RFC, which is used in court filings and is therefore a vital piece of information.  
23 The City did not disclose that it was withholding data. Notably, the City has  
24 produced this column of data in response to CPRA requests to third parties. *See*  
25 Myers Decl., ¶ 74 Exh. AR. Similarly, the database includes only those RFCs in  
26 which the top-line charge is LAMC 56.11 (i.e., the first charge on the citation), but  
27 excludes those instances in which 56.11 was an additional charge. Again,  
28



1 Plaintiffs are aware of the deficiency of this data only because this data was  
2 produced to a third party pursuant to the CPRA and then provided to Plaintiffs. *Id.*

3 This is clearly not allowed under Rule 34, which requires the objecting party  
4 to “state whether any responsive materials are being withheld on the basis of [an  
5 asserted] objection.” *In re Rivera*, 2017 U.S. Dist. LEXIS 229538, at \*6. It is not  
6 enough for Defendant to state what it is producing; it must provide sufficient  
7 information to “alert other parties to the fact that documents have been withheld  
8 and thereby facilitate an informed discussion of the objection.” 2015 Amendment  
9 Adv. Comm. Note to Fed. R. Civ. P. 34; *see D.C.*, 2016 U.S. Dist. LEXIS 197240,  
10 at \*5. The City failed to provide any information to Plaintiffs that it was  
11 withholding data or any information about why it was withholding data. As such,  
12 Plaintiffs have been “[left] . . . in the dark,” which “is precisely the situation Rule  
13 34(b)(2) is designed to prevent.” *DeSilva*, 2020 WL 5947827, at \*9 (compelling  
14 production of documents and responses compliant with Rule 34); *see also* Rule 34,  
15 Advisory Committee’s Note to 2015 Amendment (Rule 34(b)(2)(C) (amendment  
16 was added to “end the confusion that frequently arises when a producing party  
17 states several objections and still produces information”).

18 **c. Plaintiffs’ Request is Not Overbroad**

19 Plaintiffs’ request is not overbroad. The request not only identifies a  
20 discrete topic that is at the center of this litigation and is time-limited, but also  
21 relates to a specific type of document related to the discrete topic. As such, the  
22 request is narrow, and there is no basis for the City’s refusal to produce responsive  
23 documents.

24 The City’s objection to this request is focused on the timeframe for requests.  
25 As discussed in detail, two years and eight months prior to the Specific Incidents is  
26 reasonable, given that the date corresponds to when LAMC 56.11 was amended,  
27 and it is especially reasonable given the extent to which the City’s Encampment  
28

Cleanups have been subject to judicial scrutiny. *See* SAC at ¶¶ 17-19 (describing the history of claims against the City for similar violations to the ones raised by Plaintiffs). *See also Thomas*, 715 F. Supp. 2d at 1032 (granting a request for information going back nearly thirty years, where “in the context of th[e] action,” the requested information was “necessary to conduct a comparative analysis of the operation” at issue in the litigation and such analysis was “clearly relevant to Petitioner’s claims”).

But the City refuses to produce any reports, analysis, or other requested documents that have been conducted at any time, not just reports going back prior to the Specific Incidents. Under Rule 34, “[a]n objection to part of a request must specify the part and permit inspection of the rest.” Fed. R. Civ. P. 34(b)(2)(C). Even if the discovery requested was overbroad, [the City] had an obligation at a minimum to respond to the requests to the extent that they sought non-objectionable information or documents.” *In re Rivera*, 2017 U.S. Dist. LEXIS 229538, at \*6. The City has simply refused to do this, and instead, withheld all documents responsive to the request, except the raw data discussed above.

**d. Plaintiffs’ Narrow Request is Proportional to the Needs of the Case**

To the extent Defendant is withholding any documents on the basis that the request is not proportional to the needs of this case, Defendant’s objection and subsequent meet and confer efforts provided no information “clarifying, explaining, and supporting its objection” that it is not proportional to the needs of the case, based on the factors outlined in Rule 26. *Duran v. Cisco Sys., Inc.*, 258 F.R.D. 375, 378 (C.D. Cal. 2009). Applying these factors and the appropriate scope of this litigation, the request is proportional to the needs of the case. As discussed in detail above, the issues at stake in this litigation are of constitutional significance; the amount of controversy is largely irrelevant given that Plaintiffs primarily seek prospective relief to put an end to the City’s unconstitutional

1 practices; the City of Los Angeles has far more resources than the seven unhoused  
2 individuals whose belongings were seized and the volunteer organization whose  
3 resources go to replacing those belongings; and Defendant has access to  
4 information not publicly available, such as internal analysis and reports. *See*  
5 *supra*, Plaintiffs' Argument re: Request No. 2. The other factors also weigh  
6 heavily in Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).

7 **i. Importance of the discovery in resolving the issues**

8 The documents sought by Plaintiffs are related to one of the matters that is  
9 most central to this case: how the City conducts Encampment Cleanups. Reports  
10 and analysis related to those issues could provide critical evidence about, for  
11 example, the existence of customs, policies or practices or the City's awareness of  
12 and failure to address the issues raised in this case. Those issues are critical to  
13 *Monell* liability and Plaintiffs' claims for prospective relief, which as noted above,  
14 are at the center of this case.

15 **ii. Whether the burden or expense of the proposed**  
16 **discovery outweighs its likely benefit**

17 Defendant objects that the burden of producing documents responsive to  
18 Plaintiffs' request is too high, yet the only burden the City identifies in producing  
19 documents Plaintiffs have clarified are responsive to this request is literally the  
20 burden that comes from searching for documents responsive to any request. As the  
21 City concedes, the normal discovery steps necessary to conduct a "reasonable  
22 inquiry" should be sufficient to identify reports and analysis related to this request,  
23 especially since the request goes back only four years and the responsive  
24 documents would likely be contained within a few discrete departments within the  
25 City. *See In re: Citimortgage*, 2012 WL 10450139, at \*4; *see also* Plaintiffs'  
26 Argument re: RFP 16. Yet because the City continues to object to the relevance of  
27 these documents, it refuses to concede that any burden is proportionate to the needs  
28

1 of this case. The City's refusal to conduct even a reasonable inquiry to identify  
2 responsive documents is not defensible.

3 **e. The City has Waived its Other Objections**

4 The City includes a boilerplate objection on the basis of attorney-client  
5 privilege and work product doctrines, but fails to identify in any way whether or to  
6 what extent it is actually withholding any documents on the basis of privilege. In  
7 the seven months since the City produced responsive documents, the City has  
8 refused to produce a privilege log, despite repeated requests. It has therefore  
9 waived any privilege. *Burlington Northern & Santa Fe Ry. Co.* at 1149.

10 Likewise, the City provides no information here or anywhere to clarify why  
11 or even whether any of its other general objections apply. As such, it has waived  
12 them here. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

13 **f. Plaintiffs' Request for Relief**

14 Plaintiffs are entitled to an order compelling the City to produce  
15 all documents responsive to RFP No. 36 within 21 days or, if the City asserts it has  
16 produced all documents responsive to the request, compelling Defendant to  
17 provide a complete, explicit response as to the search conducted to identify and  
18 produce responsive documents and to attest to the finality of its production, as  
19 required by Rule 34.

20 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**

21 **NO. 36:**

22 For the reasons set forth in the City's arguments as to RFPs 1, 30 and 33, the  
23 documents Plaintiffs seek are not relevant and the request is not proportional to the  
24 needs of this case. The City incorporates by reference the City's Response to RFPs  
25 1, 30 and 33 in their entirety.

1           **REQUEST FOR PRODUCTION NO. 38:**

2           All Government Tort Claims filed against the CITY related to the seizure  
3 and/or destruction of homeless people's belongings.

4           **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

5           Defendant incorporates the General Objections as though fully set forth here.  
6 Defendant objects that the Request seeks documents that are not relevant to  
7 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
8 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
9 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
10 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
11 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
12 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
13 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
14 SAC as seeking only to obtain a ruling that the City's policies and practices are  
15 unconstitutional and not that each past application of those policies and practices to  
16 its members was unconstitutional."). Defendant also objects that the proposed  
17 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
18 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
19 single incident ... to hold the City liable under *Monell*"). Defendant objects that  
20 the Request is overbroad and burdensome in seeking all government tort claims  
21 filed against the City dating back four years to April 1, 2016 that are unrelated, and  
22 not relevant, to Plaintiff El Bey's specific claims alleged in the SAC. Defendant  
23 also objects to the Request to the extent the Request seeks information protected  
24 from disclosure by the attorney-client privilege and or attorney work product  
25 doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219  
26 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No.

1 CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9,  
2 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing any such proposed discovery outweighs the benefit of such information  
6 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
7 search and producing documents greatly exceeds the amount in controversy for  
8 Plaintiff's alleged damages.

9 Specifically, during the period from April 1, 2016 to July 30, 2020, a total of  
10 26,775 government tort claims were filed against the City. In order to search for  
11 and produce documents responsive to this Request, Defendant would need to  
12 create search parameters to query Defendant's City Attorney's Office Citylaw  
13 database to search government claims filed during this period; however, there are  
14 no fields to identify or segregate claims filed relating to the seizure or destruction  
15 of homeless people's belongings and such claims could be input into the database  
16 by different causes relating to civil rights, property, miscellaneous, and input as  
17 claims against different departments, such as LASAN, LAPD, or the City.  
18 Defendant would have to run multiple queries to identify potentially responsive  
19 government claims out of these 26,775 claims by claim number. Defendant would  
20 then need to assign an administrative clerk to manually pull and review identified  
21 government claims by claim number to determine responsiveness. In addition,  
22 Defendant objects that there are likely government tort claims not stored within  
23 Citylaw, which would require a further search of hard copy files of government  
24 claims stored offsite that would need to be recalled from storage and manually  
25 searched for responsive documents. Defendant objects that the Request seeks  
26 documents that are not reasonably accessible based on the undue burden and costs  
27 associated with searching for and producing documents responsive to this Request  
28



1 for the reasons described above. Without waiving any, and based on these  
2 objections, Defendant will produce the government claim filed by Plaintiff El-Bey  
3 and the other individual plaintiffs in this action, but no other documents will be  
4 produced in response to this Request.

5 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

6 Defendant incorporates the General Objections as though fully set forth here.  
7 Defendant objects that the Request seeks documents that are not relevant to  
8 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
9 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
10 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
11 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
12 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
13 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
14 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
15 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
16 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
17 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
18 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
19 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
20 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
21 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
22 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
23 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
24 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
25 obtain a ruling that the City's policies and practices are unconstitutional and not  
26 that each past application of those policies and practices to its members was  
27 unconstitutional."). Defendant also objects that the proposed discovery is not  
28

1 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
2 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
3 to hold the City liable under *Monell*."). Defendant objects that the Request is  
4 overbroad and burdensome in seeking all government tort claims filed against the  
5 City dating back four years to April 1, 2016 that are unrelated, and not relevant, to  
6 Plaintiffs' specific claims alleged in the SAC. Defendant also objects to the  
7 Request to the extent the Request seeks information protected from disclosure by  
8 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
9 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
10 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
11 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

12 Defendant further objects that the Request is burdensome and not  
13 proportional to the needs of the case, insofar as the burden of searching for and  
14 producing any such proposed discovery outweighs the benefit of such information  
15 for Plaintiffs' claims and Defendant's costs or expense in conducting the search  
16 and producing documents greatly exceeds the amount in controversy for Plaintiff's  
17 alleged damages.

18 Specifically, during the period from April 1, 2016 to July 30, 2020, a total of  
19 26,775 government tort claims were filed against the City. In order to search for  
20 and produce documents responsive to this Request, Defendant would need to  
21 create search parameters to query Defendant's City Attorney's Office Citylaw  
22 database to search government claims filed during this period; however, there are  
23 no fields to identify or segregate claims filed relating to the seizure or destruction  
24 of homeless people's belongings and such claims could be input into the database  
25 by different causes relating to civil rights, property, miscellaneous, and input as  
26 claims against different departments, such as LASAN, LAPD, or the City.  
27 Defendant would have to run multiple queries to identify potentially responsive  
28

1 government claims out of these 26,775 claims by claim number. Defendant would  
2 then need to assign an administrative clerk to manually pull and review identified  
3 government claims by claim number to determine responsiveness. In addition,  
4 Defendant objects that there are likely government tort claims not stored within  
5 Citylaw, which would require a further search of hard copy files of government  
6 claims stored offsite that would need to be recalled from storage and manually  
7 searched for responsive documents. Defendant objects that the Request seeks  
8 documents that are not reasonably accessible based on the undue burden and costs  
9 associated with searching for and producing documents responsive to this Request  
10 for the reasons described above. Without waiving any, and based on these  
11 objections, Defendant produced the government claims filed by individual  
12 Plaintiffs at CTY004316-4358, but objects to further production of documents in  
13 response to this Request.

14 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
15 **NO. 38:**

16 Plaintiffs seek Government Tort Claims filed with the City by other  
17 unhoused individuals regarding the seizure and destruction of their belongings,  
18 from two years and eight months prior to the Specific Incidents and through the  
19 present. Initially and in its Amended responses, Defendant objected to the  
20 production of any documents responsive to this request other than the individual  
21 Plaintiffs' claims (which of course, Plaintiffs have produced to the City as part of  
22 their initial disclosures). Plaintiffs requested that the City provide more details  
23 about the storage of these documents; the City refused to meet and confer and  
24 instead, amended its answer to the RFP in October 2020 by adding additional  
25 details but none of the information requested by Plaintiffs.

26 In November and December 2020, the City inexplicably reversed course.  
27 While standing by its objections, the City agreed to produce Government Tort  
28

1 Claims it could search for electronically using search terms, which limited the  
2 searches to only those claims that were actually filed electronically and that were  
3 then catalogued in the City's case management system.<sup>24</sup> By the City's own  
4 account, the City's ability to identify responsive documents by this method is  
5 extremely limited: the majority of documents responsive to the request appear not  
6 to be stored in this database and the use of this method excluded all Government  
7 Tort Claims that were submitted in paper form or uploaded as PDF attachments.  
8 *See* 12/29/2020 email from Ursea. In response to this limited search of claims filed  
9 online, the City identified and turned over 35 Government Tort Claims submitted  
10 by 20 individuals.

11 As discussed below, the City's search and production are inadequate. Not  
12 only is the search likely to leave out claims submitted by unhoused residents, but  
13 Plaintiffs can also show that the City has withheld documents responsive to this  
14 request. Because the documents are highly relevant, Plaintiffs are entitled to an  
15 order compelling production of all documents responsive to the request.

16 **a. The Documents are Relevant to Plaintiffs' Claims**

17 As set out in Plaintiffs' complaint and *supra*, Plaintiffs are entitled to  
18 discovery about the City's unconstitutional customs and practices, beyond just the  
19 Specific Incidents. Complaints raised by other unhoused individuals, alleging the  
20 same constitutional violations as those alleged in the SAC, are unquestionably  
21 relevant to the questions of whether the City has a widespread custom and practice  
22 of engaging in these violations and whether the City was on notice of the practices  
23 and did not address the issues about which individuals complained. *See Henry v.*  
24 *Cty. of Shasta*, 132 F.3d 512, 519 (9th Cir. 1997), *opinion amended on denial of*  
25

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26 <sup>24</sup> Government Tort Claims can be filed with the City of Los Angeles by using  
27 the City's Government Tort Claim form and submitting it via mail or in person, or  
28 by using the City's government tort claim portal. *See* Mike Feuer, Los Angeles  
City Attorney, "Claims," available at <https://www.lacityattorney.org/claims>.

1 *reh’g*, 137 F.3d 1372 (9th Cir. 1998) (*Monell* claim supported by “almost identical  
2 incident as that complained of” which put Defendant on notice as to future abuses);  
3 *Larez v. City of Los Angeles*, 946 F. 2d 630, 646 (9th Cir. 1991) (grounding  
4 “policy or custom” liability on grounds of similar complaints and the lack of  
5 sustaining them); *Lawman v. City & Cty. of San Francisco*, 159 F. Supp. 3d 1130,  
6 1144 (N.D. Cal. 2016) (same). These documents could also lead to the discovery of  
7 other relevant documents and witnesses. *In re: Am. Med. Sys., Inc.*, 2016 WL  
8 3077904, at \*4 (“it remains true that relevancy in discovery is broader than  
9 relevancy for purposes of admissibility at trial,”). And the Claims may contain  
10 impeachment evidence. *Estate of Ernesto Flores*, 2017 WL 3297507, at \*6;  
11 *Paulsen*, 168 F.R.D. at 289.

12 **b. Requests are Not Overbroad**

13 Plaintiffs seek Government Tort Claims that have been filed since April  
14 2016, when the City amended LAMC 56.11 and began enforcing the ordinance.  
15 Importantly, this is just two years and eight months prior to the first Specific  
16 Incident alleged in the complaint. Evidence of *prior* conduct is necessary to  
17 establish municipal liability under some theories of *Monell* liability. *See e.g.*,  
18 *Connick v. Thompson*, 563 U.S. 51, 63 (2011) (quotation omitted) (Under a failure  
19 to train theory, “contemporaneous or subsequent conduct cannot establish a pattern  
20 of violations that would provide notice to the cit[y] and the opportunity to conform  
21 to constitutional dictates . . . .”). As such, evidence of prior conduct alleged in the  
22 complaint is relevant and necessary, and courts routinely order the production of  
23 complaints going back much longer than two years and eight months. *Medora*,  
24 2007 WL 9810901, at \*4 (“a 5-year time limitation adequately serves Plaintiff’s  
25 interests in obtaining relevant documents while avoiding the imposition of undue  
26 burden and expense on Defendants.”). In fact, given the history of allegations  
27 related to the seizure and destruction of unhoused people’s belongings which  
28

1 preceded this case, *see* SAC ¶¶ 17-19, two years and eight months is a more than  
2 reasonable time period for tort claims related to this conduct. And of course,  
3 discovery regarding cleanups that have happened since the Specific Incidents  
4 occurred is necessary for Plaintiffs' claims of prospective relief.

5 **c. The Request is Proportionate to the Needs of the Case**

6 As discussed in detail above, the issues at stake in this litigation are of  
7 constitutional significance; the amount of controversy is largely irrelevant given  
8 that Plaintiffs primarily seek prospective relief to put an end to the City's  
9 unconstitutional practices; the City of Los Angeles has far more resources than the  
10 seven unhoused individuals whose belongings were seized and the volunteer  
11 organization whose resources go to replacing those belongings. *See infra*. The  
12 other factors also weigh heavily in Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).

13 **i. Parties' relative access to relevant information**

14 As with the other requests, the City controls access to this information.  
15 Plaintiffs have no practical way, other than through discovery, of determining  
16 whether other claims have been filed against the City for these practices. In  
17 addition, this discovery is also important to identify witnesses who had similar  
18 experiences as the Plaintiffs, which goes to the issue of whether the City has  
19 widespread and longstanding policies and practices that violate unhoused people's  
20 constitutional rights; this is at issue both for *Monell* liability and for Plaintiffs'  
21 claims for prospective relief. Although the City heavily documents the seizure and  
22 destruction of property, those documents almost never contain any information  
23 about the names of individuals whose property was destroyed. As discussed above  
24 (and noted by the district court), unhoused residents may, for a variety of reasons,  
25 have difficulty providing precise dates and times when their belongings were  
26 taken, which makes it difficult for Plaintiffs to identify witnesses and  
27 corresponding documentation from the City regarding these incidents. The  
28



1 Government Tort Claims are some of the only documents maintained by the City  
2 that contains that witness information.

3 **ii. Importance of the discovery in resolving the issues**

4 *Monell* liability is a central issue in this case, especially because Plaintiffs  
5 did not bring claims against individual LA Sanitation workers or LAPD officers  
6 and primarily seek injunctive relief. And as discussed above, past complaints by  
7 individuals of conduct that gives rise to subsequent litigation is critical to the issue  
8 of *Monell* liability. The fact that a city has received numerous complaints is  
9 important evidence to show that the city was on notice of this alleged activity and  
10 failed to take steps to address the abuse. *See Henry* 132 F.3d at 519; *Larez*, 946  
11 F.2d at 646 (finding “policy or custom” liability based on similar complaints and  
12 the City’s lack of sustaining them); *Lawman*, 159 F. Supp. 3d at 1144 (same).

13 As discussed above, this discovery is also important to identify witnesses  
14 who had similar experiences as the Plaintiffs, which goes to the question of the  
15 existence of unconstitutional customs, policies, and practices and whether those  
16 customs, policies, and practices are widespread and longstanding, which is  
17 incredibly important both for establishing *Monell* liability and the scope of  
18 prospective relief. The claims the City did produce demonstrate why these  
19 documents are important: they contain the names of individuals who bring similar  
20 allegations against the City and provide details about the incidents from the  
21 perspective of the individuals who experienced the violations. This is notable,  
22 since the vast majority of the discovery Plaintiffs seek from the City is evidence  
23 created by the City employees who engaged in the seizure and destruction of  
24 property. *See, e.g.*, RFPs 30, 33-34. Therefore, the documents may contain  
25 important impeachment evidence. *Estate of Ernesto*, 2017 WL 3297507, at \*6;  
26 *Paulsen*, 168 F.R.D. at 2289 (“Apart from whether the documents may be  
27 admissible at trial as part of the plaintiff’s case-in-chief, they certainly may be used  
28

1 for impeachment purposes . . . . [T]here is no merit to defendant corporation's  
2 relevancy objection.").

3 **iii. Whether the burden or expense of the proposed**  
4 **discovery outweighs its likely benefit**

5 This discovery is highly relevant and important to Plaintiffs' case. Tort  
6 claims filed against the City represent only a very small subset of instances in  
7 which the City engaged in activities that Plaintiffs allege violated unhoused  
8 people's constitutional rights, but they represent an important subset—instances in  
9 which unhoused people were able to pull together their resources and submit a tort  
10 claim to the city, whether online, by mail, or by delivering it to the clerk. Or they  
11 represent facts egregious enough that the unhoused person was able to retain a  
12 lawyer. And as noted above, the claims include statements from unhoused  
13 residents about their experiences, rather than simply containing the City's view of  
14 these incidents.

15 The City has not indicated how many forms were left unreviewed but there  
16 is no basis to assume that the forms that were not searched are any less relevant or  
17 important to Plaintiffs' case than the forms that were searched. In reality, it may be  
18 more likely that claims for these kinds of violations are filed using the City's  
19 Government Tort Claim form, rather than the City's online portal. Many unhoused  
20 people often do not have access to a computer or the internet and individuals are  
21 routinely referred to the City Clerk's office to file a tort claim in person. Lawyers  
22 may also choose to PDF or submit tort claims by paper, rather than use the online  
23 form, so that they can retain a copy after it is submitted.<sup>25</sup>

24 The burden to the City to search for responsive documents submitted in  
25 paper or PDF form does not outweigh the benefit to Plaintiffs. The identified

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26  
27 <sup>25</sup> Plaintiffs' Government Tort Claims were submitted in hard copy rather than  
28 through the City's online portal and so ostensibly would not have been identified in  
the City's search.

1 burden is simply the burden that comes from keeping responsive documents in a  
2 form that is not searchable. “The fact that a responding party maintains records in  
3 different locations utilizes a filing system that does not directly correspond to the  
4 [discovery request] or that responsive documents might be voluminous does not  
5 suffice to sustain a claim of undue burden.” *Thomas v. Cate*, 715 F. Supp. 2d at  
6 1033 (quoting *Greystone Constr. Inc., v. Nat’l Fire & Marine Ins. Co.*, No. 07-cv-  
7 00066-MSK-CBS, 2008 WL 795815, at \*6 (D. Colo. March 21, 2008) and  
8 collecting cases). And the fact that the City is unable to use electronic search  
9 terms to identify additional responsive documents does not obviate the City’s need  
10 to search for and produce those additional documents.” Rule 34 does not draw a  
11 distinction between documents stored electronically and documents stored in  
12 paper.” *NuVasive, Inc.* 2019 WL 4934477, at \*2. Instead, “Plaintiff must request  
13 information, regardless of how or where it is maintained by Defendants, which  
14 Defendants must address as required by Rule 34. That is discovery: a party  
15 requests information and the burden is on the producing party to locate and  
16 produce it or object legitimately to production.” *Id.* (declining to rule on the  
17 sufficiency of the use of search terms and custodians).

18 As discussed above, Government Tort Claims are highly relevant to the  
19 question of *Monell* liability, which is at issue in every Section 1983 case brought  
20 against the City of Los Angeles. Therefore, it is highly likely the City would  
21 frequently face discovery requests for these documents, and yet, the City has  
22 chosen to maintain a significant portion of the documents (apparently all  
23 documents filed using the City’s Government Tort Claim form) in a way that is not  
24 readily searchable. This is a burden of the City’s own making and does not  
25 outweigh the benefit of these highly relevant documents. *See U.S. ex rel*  
26 *Guardiola*, 2015 WL 5056726, at \*5(organizations should give “thought to the risk  
27 of litigation and corresponding obligations” when considering how to store their  
28

documents); *see also* *Toranto v. Jaffurs*, No. 16cv1709-JAH (NLS), 2018 WL 4613149, at \*3 (S.D. Cal. Sep. 26, 2018) (refusing to entertain an objection on the burden of producing data “that it should have reasonably foreseen would be discoverable material at a time when it should have anticipated litigation”).

As with other RFPs, Plaintiffs’ concern about the sufficiency of the search is not simply hypothetical: the City’s searches unquestionably failed to identify highly relevant Government Tort Claims—for example, the claims that formed the basis of two lawsuits filed against the City of Los Angeles, which was defended by the City and raise nearly identical factual allegations to the individual plaintiffs in this case. *See, e.g., Schellenberg v City of Los Angeles*, 2:18-cv-07670-CAS-PLA; *Cooley v. City of Los Angeles*, 2:18-cv-09053-CAS-PLA (Dkt. 16 at 15-16). In fact, in both of those cases, the issue of the sufficiency of the Government Tort Claim was actively litigated (by the City Attorneys who are also counsel of record in this case). There is no excuse for the City’s failure to produce these responsive documents, and the fact that Defendants’ search did not uncover these two cases, which allege factually similar claims against the City, demonstrate that the City’s search method was not sufficient to identify documents responsive to Plaintiffs’ request.

**d. The City’s Other Objections are without Merit**

**i. Claims of privilege**

In addition to objecting to proportionality and relevance, the City specifically objects “to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines.” The use of this boilerplate objection here is patently absurd and an abuse of the discovery process. *See Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. Government tort claims are, as a matter of law, public records. *See Poway Unified Sch. Dist. v. Superior Court (Copley Press)*, 62 Cal. App. 4th 1496, 1507

1 (1998). The claims are also drafted by outside parties and sent to the City. Finally,  
2 Defendant has waived any objections it might have had that these documents were  
3 privileged. *See DeSilva*, 2020 WL 5947827, at \*7.

4 **ii. Other boilerplate general objections**

5 As with all of its requests, the City incorporates three pages of boilerplate  
6 objections but failed to provide any basis for the specific objection or even an  
7 assessment of whether the objection specifically applies to the request. The use of  
8 boilerplate objections here is also inappropriate and an abuse of the discovery  
9 process. *Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. *See*  
10 *also Eisenhower Med. Ctr.*, 2020 U.S. Dist. LEXIS 218716, at \*9.

11 The City's boilerplate objections do not apply to this specific Request for  
12 Production. The City refused to clarify which of the objections (if any) applied to  
13 this request, let alone the facts necessary to support their application, even after  
14 months of requests by Plaintiffs for the City to do so as required by Rule 34. The  
15 City has therefore waived the objection. *See e.g., Bosley*, 2016 WL 1704159, at \*5  
16 (Defendant waived blanket objections by failing to provide details of the objections  
17 as required by Rule 34(b)(2)(B)).

18 **e. Plaintiffs' Request for Relief**

19 Plaintiffs are entitled to an order compelling the City to produce  
20 all documents responsive to RFP No. 38 within 21 days or where applicable, to  
21 compel Defendant to provide a complete, explicit response as to the finality of  
22 their production with respect to specific individual Plaintiffs, as required by Rule  
23 34.

24 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**  
25 **NO. 38:**

26 RFP 38 seeks: All Government Tort Claims filed against the CITY related to  
27 the seizure and/or destruction of homeless people's belongings [since 2016].  
28

1 Plaintiffs have not established the relevance of these claims. Plaintiffs argue  
2 that Government Tort Claims are relevant for (1) Monell liability; (2) could also  
3 lead to the discovery of other relevant documents and witnesses; and (3) may  
4 contain impeachment evidence. For the reasons previously discussed, *Monell* is  
5 not a valid relevance theory in this case. Furthermore, Plaintiffs do not explain  
6 how Government Tort Claims, including claims that pre-date Plaintiffs' incidents  
7 by several years, are likely to contain any "relevant documents" or "witnesses," or  
8 how they are likely to serve as "impeachment evidence."

9 Even if Plaintiffs' conclusory allegations were enough to meet their burden  
10 to establish relevance, a request for all Government Tort Claims from 2016 to  
11 present is not proportional to the needs of the case. As Plaintiffs concede, the City  
12 has produced claims responsive to this request based on electronic searches in the  
13 City's Government Claims. The database does not permit boolean, proximity, or  
14 similar searches. Ursea Decl. ¶9. The system permits up to three "and" search  
15 terms to be entered at a time but it functions best if one search term is entered at a  
16 time. *Id.* Claims that have been submitted in paper form or uploaded as PDF  
17 attachments for any other reason are not searchable electronically. *Id.* Thus, to  
18 identify responsive documents, each such claim in the database would need to be  
19 downloaded manually and reviewed for responsiveness. *Id.* The system allows  
20 restriction parameters to be set -- in relevant part, date of claim, type of claim, and  
21 department -- but none of those restrictions were used in conducting these searches  
22 so that the widest possible search net was cast. *Id.* The City used the following  
23 search terms—each one input separately because of the system's limitations:

- 24 a. cleanup
- 25 b. clean-up
- 26 c. cleaning
- 27 d. sweep
- 28



- e. homeless
- f. unhoused
- g. sanitation
- h. LASAN
- i. bulky
- j. 56.11
- k. destroy
- l. destruction
- m. encampment
- n. dump
- o. couch
- p. pallet
- q. cart
- r. care+
- s. hope
- t. tent
- u. trash
- v. care

The searches of the Government Claims database using the above search terms resulted in approximately 1200 claims. Those claims were then reviewed and 30 responsive claims were identified. Ursea Decl. ¶10. Although the City had previously agreed only to produce a spreadsheet of electronically searchable information from the database, the City took the extra step to manually download each of the claims identified, which the City produced to Plaintiffs on December 18, 2020. Ursea Decl. ¶24. Given the (at best) questionable relevance of such claims, the City's reasonable compromise and production of documents, and the burden associated with manually searching well over a thousand claims for potentially responsive documents, Plaintiffs request is not proportional to the needs

1 of the case. The City incorporates by reference its response to RFP 2, which  
2 applies with equal force here.

3  
4 **REQUEST FOR PRODUCTION NO. 39:**

5 All complaints or grievances filed against the CITY, including the LAPD,  
6 related to the seizure and/or destruction of homeless people's belongings.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

8 Defendant incorporates the General Objections as though fully set forth here.  
9 Defendant objects that the Request seeks documents that are not relevant to  
10 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
11 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
12 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
13 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
14 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
15 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
16 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
17 SAC as seeking only to obtain a ruling that the City's policies and practices are  
18 unconstitutional and not that each past application of those policies and practices to  
19 its members was unconstitutional."). Defendant also objects that the proposed  
20 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
21 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
22 single incident ... to hold the City liable under *Monell*"). Defendant objects that  
23 the Request is overbroad and burdensome in seeking all claims or grievances filed  
24 against the City and LAPD relating to seizure or destruction of homeless property  
25 dating back four years to April 1, 2016 that are unrelated, and not relevant, to  
26 Plaintiff El Bey's specific claims alleged in the SAC. Defendant also objects to the  
27 Request to the extent the Request seeks information protected from disclosure by  
28

1 the attorney-client privilege and or attorney work product doctrines. F.R.Civ.P.  
2 Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D.  
3 Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx),  
4 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

5 Defendant further objects that the Request is burdensome and not  
6 proportional to the needs of the case, insofar as the burden of searching for and  
7 producing any such proposed discovery outweighs the benefit of such information  
8 for Plaintiff El Bey's claims and Defendant's costs or expense in conducting the  
9 search and producing documents greatly exceeds the amount in controversy for  
10 Plaintiff's alleged damages.

11 Specifically, in order to search for and obtain documents responsive to the  
12 Request, Defendant would need to conduct a search within LAPD's Complaint  
13 Management System ("CMS"). LAPD logged over 12,000 complaints within CMS  
14 over the four-period dating back to April 2016. Each complaint is logged into the  
15 system and maintained by a separate complaint-file (CF) number and categorized  
16 using codes for allegation type, such as conduct unbecoming, misconduct, or bias.  
17 CMS does not contain search field for allegation types based on seizure or  
18 destruction of property. Defendant would have to assign an LAPD analyst to  
19 conduct queries of search terms through digitized copies of over 12,000 complaints  
20 to locate potentially responsive documents to the Request. A complete and closed  
21 complaint file contains approximately 100-250 pages, including forms for initial  
22 intake, field reports, investigative reports, medical information, other legal  
23 documentation, and other administrative reports or decisions. After running the  
24 search query, an analyst would have to identify complaint files by CF number and  
25 manually review each complaint file to determine responsiveness and the existence  
26 of confidential information, including medical information, that may require  
27  
28

1 redaction. The average time required to collect, review, and redact a complaint file  
2 is approximately four hours.

3 In addition, Defendant would need to create search parameters to query  
4 Defendant's City Attorney's Office Citylaw database to search government claims  
5 filed against the City from April 1, 2016 to the present. A total of 26,775  
6 government tort claims were filed against the City during the period from April 1,  
7 2016 to July 30, 2020. Defendant's Citylaw database does not contain search fields  
8 to identify or segregate claims filed relating to the seizure or destruction of  
9 homeless people's belongings and such claims could be input into the database by  
10 different causes relating to civil rights, property, miscellaneous, and input as  
11 claims against different departments, such as LASAN, LAPD, or the City.  
12 Defendant would have to run multiple queries to identify potentially responsive  
13 claims out of these 26,775 claims by claim number. Defendant would then need to  
14 assign an administrative clerk to manually pull and review identified government  
15 claims by claim number to determine responsiveness. In addition, Defendant  
16 objects that there are likely government tort claims not stored within Citylaw,  
17 which would require a further search of hard copy files of government claims  
18 stored offsite that would need to be recalled from storage and manually searched  
19 for responsive documents.

20 Defendant objects that the Request seeks documents that are not reasonably  
21 accessible based on the undue burden and costs associated with searching for and  
22 producing documents responsive to this Request for the reasons described above.  
23 Without waiving any, and based on these objections, Defendant will produce the  
24 LAPD's complaint file for claims filed by the individual plaintiffs, and the  
25 individual plaintiffs' government tort claims filed with the City, but no other  
26 documents will be produced in response to this Request.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request seeks documents that are not relevant to Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents occurring on or around March 21, 2019 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant objects that the Request is overbroad and burdensome in seeking all claims or grievances filed against the

1 City and LAPD relating to seizure or destruction of homeless property dating back  
2 four years to April 1, 2016 that are unrelated, and not relevant, to Plaintiffs'  
3 specific claims alleged in the SAC. Defendant also objects to the Request to the  
4 extent the Request seeks information protected from disclosure by the attorney-  
5 client privilege and or attorney work product doctrines. F.R.Civ.P. Rule  
6 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal.  
7 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013  
8 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

9 Defendant further objects that the Request is burdensome and not  
10 proportional to the needs of the case, insofar as the burden of searching for and  
11 producing any such proposed discovery outweighs the benefit of such information  
12 for Plaintiffs' claims and Defendant's costs or expense in conducting the search  
13 and producing documents greatly exceeds the amount in controversy for Plaintiffs'  
14 alleged damages.

15 Specifically, in order to search for and obtain documents responsive to the  
16 Request, Defendant would need to conduct a search within LAPD's Complaint  
17 Management System ("CMS"). LAPD logged over 12,000 complaints within CMS  
18 over the four-period dating back to April 2016. Each complaint is logged into the  
19 system and maintained by a separate complaint-file (CF) number and categorized  
20 using codes for allegation type, such as conduct unbecoming, misconduct, or bias.  
21 CMS does not contain search field for allegation types based on seizure or  
22 destruction of property. Defendant would have to assign an LAPD analyst to  
23 conduct queries of search terms through digitized copies of over 12,000 complaints  
24 to locate potentially responsive documents to the Request. A complete and closed  
25 complaint file contains approximately 100-250 pages, including forms for initial  
26 intake, field reports, investigative reports, medical information, other legal  
27 documentation, and other administrative reports or decisions. After running the  
28



1 search query, an analyst would have to identify complaint files by CF number and  
2 manually review each complaint file to determine responsiveness and the existence  
3 of confidential information, including medical information, that may require  
4 redaction. The average time required to collect, review, and redact a complaint file  
5 is approximately four hours.

6 In addition, Defendant would need to create search parameters to query  
7 Defendant's City Attorney's Office Citylaw database to search government claims  
8 filed against the City from April 1, 2016 to the present. A total of 26,775  
9 government tort claims were filed against the City during the period from April 1,  
10 2016 to July 30, 2020. Defendant's Citylaw database does not contain search fields  
11 to identify or segregate claims filed relating to the seizure or destruction of  
12 homeless people's belongings and such claims could be input into the database by  
13 different causes relating to civil rights, property, miscellaneous, and input as  
14 claims against different departments, such as LASAN, LAPD, or the City.  
15 Defendant would have to run multiple queries to identify potentially responsive  
16 claims out of these 26,775 claims by claim number. Defendant would then need to  
17 assign an administrative clerk to manually pull and review identified government  
18 claims by claim number to determine responsiveness. In addition, Defendant  
19 objects that there are likely government tort claims not stored within Citylaw,  
20 which would require a further search of hard copy files of government claims  
21 stored offsite that would need to be recalled from storage and manually searched  
22 for responsive documents.

23 Defendant objects that the Request seeks documents that are not reasonably  
24 accessible based on the undue burden and costs associated with searching for and  
25 producing documents responsive to this Request for the reasons described above.  
26 Without waiving any, and based on these objections, Defendant produced the  
27  
28

1 LAPD complaints filed by individual Plaintiffs at CTY004511-4626, but objects to  
2 further production of documents in response to this Request.

3 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 39:**

5 Plaintiffs seek complaints and grievances filed against the City by other  
6 unhoused individuals regarding the seizure and destruction of their belongings,  
7 going back two years and eight months prior to the Specific Incidents through the  
8 present. This includes not only Government Tort Claims, which are filed only  
9 when an individual is claiming they are owed money by the City, but also  
10 complaints and grievances submitted by individuals to the various departments  
11 participating in cleanups, including but not limited to the Los Angeles Police  
12 Department. This includes, for example, LA Sanitation, the Unified Homeless  
13 Response Center, the Mayor's office, and the various city council offices. It would  
14 also include any complaints filed in state or federal court, alleging the City seized  
15 and destroyed unhoused people's belongings.

16 As with the Government Tort Claims, Defendant initially objected to the  
17 production of any documents responsive to this request other than documents  
18 generated by the filing of Plaintiffs' lawsuit and the complaint itself. On November  
19 19, the City inexplicably reversed course. While standing by all of its objections, it  
20 agreed to search for complaints to LAPD and to export the intake summaries that  
21 relate to the seizure or destruction of unhoused person's belongings. The City did  
22 not agree to provide any other forms of complaints or grievances that may have  
23 been submitted to, for example, any other department such as LA Sanitation, the  
24 Mayor's office, etc. The City agreed to produce a spreadsheet containing the  
25 LAPD complaints by December 18, 2020, but it did not do so. Myers Decl., ¶ 47,  
26 Exh. AA. On December 29, counsel for the City sent a further update, stating "we  
27 are still working on the other categories of documents plaintiffs requested,  
28

1 including police complaints . . . and will get back to you on these as soon as we  
2 can.” Myers Decl., ¶ 56, Exh. AH. The City has not communicated with Plaintiffs  
3 about this request since.

4 As discussed below, the City’s delay in producing the limited documents it  
5 has agreed to produce is inexcusable. Moreover, the City’s agreement to produce  
6 only complaints filed with the LAPD is insufficient. Plaintiffs can again show the  
7 City has withheld documents responsive to this request. Because the documents are  
8 highly relevant, Plaintiffs are entitled to an order compelling production of all  
9 documents responsive to the request within 21 days.

10 **a. The Documents are Relevant to Plaintiffs’ Claims**

11 As set out in Plaintiffs’ complaint and *supra*, Plaintiffs are entitled to  
12 discovery about the City’s unconstitutional customs and practices, beyond just the  
13 Specific Incidents. Complaints raised by other unhoused individuals, alleging the  
14 same constitutional violations as those alleged in the SAC, are unquestionably  
15 relevant to the questions of whether the City has a widespread custom and practice  
16 of engaging in these violations and whether the City was on notice of the practices  
17 and did not address the issues about which individuals complained. *See Henry v.*  
18 *Cty. of Shasta*, 132 F.3d 512, 519 (9th Cir. 1997), *opinion amended on denial of*  
19 *reh’g*, 137 F.3d 1372 (9th Cir. 1998) (*Monell* claim supported by “almost identical  
20 incident as that complained of” which put Defendant on notice as to future abuses);  
21 *Larez v. City of Los Angeles*, 946 F. 2d 630, 646 (9th Cir. 1991) (grounding  
22 “policy or custom” liability on grounds of similar complaints and the lack of  
23 sustaining them); *Lawman v. City & Cty. of San Francisco*, 159 F. Supp. 3d 1130,  
24 1144 (N.D. Cal. 2016) (same). These documents could also lead to the discovery of  
25 other relevant documents and witnesses. *In re: Am. Med. Sys., Inc.*, 2016 WL  
26 3077904, at \*4 (“it remains true that relevancy in discovery is broader than  
27 relevancy for purposes of admissibility at trial.”).

**b. The City's Continued Delay is Inexcusable**

Plaintiffs propounded these RFPs in July 2020 (and provided them to Defendant in October 2019). The City delayed three months after filing written responses, and then agreed to produce responsive documents after a delay of another month. The date the City itself chose to produce this document came and went, and two months later, the City still did not produce the requested documents. The City's use of a "rolling production" is not allowed under Rule 34, and there is absolutely no justification for the City's more than six month delay in producing these documents. *See* Rule 34(b)(2); *Maiorano*, 2017 WL 4792380, at \*2; *Fischer*, 2017 WL 773694, at \*3.

**c. Request is not Overbroad**

Plaintiffs seek Government Tort Claims that have been filed against the City since April 2016, when the City amended LAMC 56.11 and began enforcing the ordinance. Importantly, this is just two years and eight months prior to the first Specific Incident alleged in the complaint. Evidence of *prior* conduct is necessary to establish municipal liability under some theories of *Monell* liability. *See e.g., Connick v. Thompson*, 563 U.S. 51, 63 (2011) (quotation omitted) (Under a failure to train theory, "contemporaneous or subsequent conduct cannot establish a pattern of violations that would provide notice to the cit[y] and the opportunity to conform to constitutional dictates . . ."). As such, evidence of prior conduct alleged in the complaint is relevant and necessary, and Courts routinely order the production of complaints going back much longer than two years and eight months. *Medora* 2007 WL 9810901, at \*4 ("a 5-year time limitation adequately serves Plaintiff's interests in obtaining relevant documents while avoiding the imposition of undue burden and expense on Defendants."). In fact, given the history of allegations related to the seizure and destruction of unhoused people's belongings which preceded this case, *see* SAC ¶¶ 17-19, two years and eight months is a more than reasonable time period for tort claims related to this conduct. And of course,

1 discovery regarding cleanups that have happened since the Specific Incidents  
2 occurred are necessary for Plaintiffs' claims of prospective relief

3 **d. The Request is Proportionate to the Needs of the Case**

4 As discussed in detail above, the issues at stake in this litigation are of  
5 constitutional significance; the amount of controversy is largely irrelevant given  
6 that Plaintiffs primarily seek prospective relief to put an end to the City's  
7 unconstitutional practices; and the City of Los Angeles has far more resources than  
8 the seven unhoused individuals whose belongings were seized and the volunteer  
9 organization whose resources go to replacing those belongings. *See infra*. The  
10 other factors also weigh heavily in Plaintiffs' favor. *See* F.R.C.P. 26(b)(1).

11 **i. Parties' relative access to relevant information**

12 As with the other requests, the City controls access to this information.  
13 Plaintiffs have no practical way, other than through discovery, of determining  
14 whether other individuals have complained to the City about its practices. In  
15 addition, this discovery is also important to identify witnesses who had similar  
16 experiences as the Plaintiffs, which goes to the issue of whether the City has  
17 widespread and longstanding policies and practices that violate unhoused people's  
18 constitutional rights. This is at issue both for *Monell* liability and for Plaintiffs'  
19 claims for prospective relief. Although the City heavily documents the seizure and  
20 destruction of property, those documents almost never contain any information  
21 about the names of individuals whose property was destroyed. As discussed above  
22 (and noted by the District Court, *see* February Order), unhoused residents may  
23 have difficulty providing precise dates and times when their belongings were  
24 taken, which makes it difficult for Plaintiffs to identify witnesses and  
25 corresponding documentation from the City regarding these incidents. Complaints  
26 and grievances submitted by unhoused people who experienced these violations  
27  
28

1 are likely some of the only documents maintained by the City that contain witness  
2 information, and Plaintiffs do not have practical access to that information.

3 **ii. Importance of the discovery in resolving the issues**

4 The parties in this case disagree about the City's practices in seizing and  
5 destroying unhoused people's belongings. *See e.g.*, Declaration of Howard Wong,  
6 Dkt. 42-6 at ¶ 47 (disputing Plaintiffs' allegation that it is the City's practice to  
7 deem "a bicycle with all of its parts and a detached front wheel present at a site"  
8 inoperable and therefore discard it). Evidence that relates to the existence of  
9 unconstitutional customs, policies, and practices and the question of whether those  
10 customs, policies, and practices are widespread and longstanding, is key to the  
11 question of both *Monell* liability and to the individual plaintiffs' and KFA's claims  
12 for prospective relief. As such, evidence of the City's actual practices is one of the  
13 most central issue in this case. To that end, these documents contain narratives  
14 from others affected by these policies as well as witness information of individuals  
15 who had similar experiences as the Plaintiffs. The tort claims the City did produce  
16 confirm that these documents are important: they contain the names of individuals  
17 who bring similar allegations against the City and details about the incidents, from  
18 the perspective of the individuals who experienced the violations. This is notable,  
19 since the vast majority of the discovery Plaintiffs seek from the City is evidence  
20 created by the City employees who engage in the seizure and destruction of  
21 property. *See e.g.*, RFPs 30, 33-34 (all containing narratives from city employees).

22 Past complaints by individuals of conduct that gives rise to subsequent  
23 litigation is also critical to the issue of *Monell* liability for another reason: the fact  
24 that a city has received numerous complaints is important evidence to show that  
25 the city was on notice of this alleged activity and failed to take steps to address the  
26 abuse. *See Henry* 132 F.3d at 519; *Larez v. City of Los Angeles*, 946 F.2d at 646  
27 (finding "policy or custom" liability based on similar complaints and the City's  
28



1 lack of sustaining them); *Lawman v. City & Cty. of San Francisco*, 159 F. Supp. 3d  
2 at 1144 (same).

3 **iii. Whether the burden or expense of the proposed**  
4 **discovery outweighs its likely benefit**

5 As discussed above, the benefit of these documents is significant. On the  
6 other hand, the City has not shown that there is any significant burden or expense,  
7 other than the ordinary burden or expense of discovery. First, the City has agreed  
8 to produce intakes for LAPD complaints, but has simply failed to do so.  
9 Moreover, there is no merit to the City's objection based on burden that the City  
10 previously raised--the description described by the City is simply the process  
11 required to identify any responsive documents (identifying search terms and  
12 manually reviewing documents for responsiveness). *See In re: Citymortgage Inc.*  
13 2012 WL 10450139, at \*4.

14 The only burden the City identifies is searching for responsive documents  
15 within the LAPD and the City Attorney's office; it does not object to the rest of the  
16 request—namely responsive documents from other entities within the City. Any  
17 objection on that basis is therefore waived. But even if not waived, there would be  
18 no basis for such an objection. The City's failure to operate or centralize a formal  
19 grievance or complaint process for unhoused people to complain about their  
20 property being taken or destroyed does not justify refusing to conduct a reasonable  
21 search for these highly relevant and responsive documents. "The fact that a  
22 responding party maintains records in different locations utilizes a filing system  
23 that does not directly correspond to the [discovery request] or that responsive  
24 documents might be voluminous does not suffice to sustain a claim of undue  
25 burden." *Thomas*, 715 F. Supp. 2d at 1033 (quoting *Greystone Constr. Inc.*, 2008  
26 WL 795815, at \*6 and collecting cases). Any investigation into this case should  
27 have already identified custodians in the relevant departments who would have  
28 responsive documents.

1 As with other RFPs, Plaintiffs' concern about the sufficiency of the search  
2 and production of responsive documents is not simply hypothetical: the City failed  
3 to produce the complaints for two lawsuits filed against the City of Los Angeles in  
4 the year preceding this case that raise nearly identical factual allegations to the  
5 individual plaintiffs in this case. *See, e.g., Schellenberg v City of Los Angeles*,  
6 2:18-cv-07670-CAS-PLA, *Cooley v. City of Los Angeles*, 2:18-cv-09053-CAS-  
7 PLA (Dkt. 16 at 15-16).<sup>26</sup>

8 **e. The City Waived Any Objection to Withhold Complaints of**  
9 **Current Investigations**

10 On November 19, 2020, the City agreed to produce a spreadsheet containing  
11 intake information for closed LAPD complaints. The City stated that the  
12 spreadsheet would "only include investigations that have been closed as ongoing  
13 investigations are privileged." Nov. 19, 2020 email. This was the first time the  
14 City asserted any kind of "privilege" for ongoing investigations and provided no  
15 further explanation. The time to assert such a privilege had long passed. The City  
16 raised the objection for the first time months after initially responding to Plaintiffs'  
17 requests and even after subsequently amending its written responses to the RFPs in  
18 October 2020. "[A] party who fails to file timely objections to a discovery request  
19 waives those objections." *DeSilva*, 2020 WL 5947827, at \*7 (failure to raise an  
20 objection of privilege at the time of providing responses to discovery waives that  
21 objection). And the bare assertion that information is "privileged" is not even  
22 remotely sufficient under Rule 34 to preserve the privilege. *See id.*, *Burlington N.*  
23 *& Santa Fe Ry. Co.*, 408 F.3d at 1149. As such, Defendant has waived whatever

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24  
25 <sup>26</sup> Even a cursory review of Mr. Schellenberg's allegations in his complaint  
26 confirm why this is highly relevant and exactly the type of evidence to which  
27 Plaintiffs are entitled: Mr. Schellenberg alleged that his bicycle was seized and  
28 destroyed by LA Sanitation in 2018 simply because the tire had been removed—  
the exact practice the City's Chief Environmental Compliance Inspector disputes  
exists. *Compare* Myers Decl., ¶ 20, Exh. K at ¶ 47 with *Schellenberg v. City of*  
*Los Angeles*, 2:18-cv-07670-CAS-PLA, Dkt. 1 at ¶ 20.

1 privilege it asserts exists regarding complaints that have not yet been closed and  
2 should be ordered to produce all responsive LAPD complaints.

3 **f. The Other Objections Do Not Have Merit**

4 The City did object that “to the extent the Request seeks information  
5 protected from disclosure by the attorney-client privilege and or attorney work  
6 product doctrines.” The use of this boilerplate objection here is patently absurd  
7 and an abuse of the discovery process. *See Polaris*, 2017 U.S. Dist. LEXIS  
8 222261, at \*14-17. The claims are drafted by outside parties and sent to the City.  
9 They are therefore neither attorney-client communications nor work product.  
10 Defendant has waived any objections it might have had that these documents were  
11 privileged by failing to provide any additional information regarding these claims.  
12 *See DeSilva*, 2020 WL 5947827, at \*7.

13 **i. Other boilerplate general objections**

14 As with all of its requests, the City incorporates three pages of boilerplate  
15 objections but failed to provide any basis for the specific objection or even an  
16 assessment of whether the objection specifically applies to the request. The use of  
17 boilerplate objections here is also inappropriate and an abuse of the discovery  
18 process. *See Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17. *See also*  
19 *Eisenhower Med. Ctr.*, 2020 U.S. Dist. LEXIS 218716, at \*9.

20 The City’s boilerplate objections do not apply to this specific Request for  
21 Production. The City refused to clarify which of the objections (if any) applied to  
22 this request, let alone the facts necessary to support its application, even after  
23 months of requests by Plaintiffs for the City to do so as required by Rule 34. The  
24 City has therefore waived the objection. *See e.g., Bosley*, 2016 WL 1704159, at \*5  
25 (Defendant waived blanket objections by failing to provide details of the objections  
26 as required by Rule 34(b)(2)(B)).  
27  
28

1           **g. Plaintiffs' Request for Relief**

2           Plaintiffs are entitled to an order compelling the City to produce  
3 all documents responsive to RFP No. 39 within 21 days or where applicable, to  
4 compel Defendant to provide a complete, explicit response as to the finality of  
5 their production with respect to specific individual Plaintiffs, as required by Rule  
6 34.

7           **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**  
8           **NO. 39:**

9           RFP 39 asks for "All complaints or grievances filed against the CITY,  
10 including the LAPD, related to the seizure and/or destruction of homeless people's  
11 belongings [2016 to present]."

12           Plaintiffs argue that complaints about seizure/destruction of homeless  
13 persons' belongings from 2016 to the present are relevant "to the questions of  
14 whether the City has a widespread custom and practice of engaging in these  
15 violations and whether the City was on notice of the practices and did not address  
16 the issues about which individuals complained." As previously discussed, *Monell*  
17 is not a valid relevance theory in this case. Relatedly, given the City's admissions  
18 that it promulgated and enforces LAMC 56.11, including during homeless  
19 encampment cleanups, there is no dispute as to whether the City was "on notice"  
20 about its policies and practices. There is no need for Plaintiffs to conduct  
21 extensive discovery to establish that individuals have complained about LAMC  
22 56.11 and its enforcement. As Plaintiffs catalog in the SAC, this is not the first  
23 lawsuit challenging LAMC 56.11 and its enforcement. *Lebron Decl.* ¶ 2, Ex. 27,  
24 SAC at pp.6-7 ("as a result of these practices, the City has faced almost a dozen  
25 lawsuits in the last 30 years, brought by unhoused residents who allege that the  
26 City has violated their constitutional rights by seizing and destroying their tents,  
27 medications, documents, and other items they need to survive on the streets" and  
28

1 listing cases). Plaintiffs cannot manufacture a factual dispute where none exists to  
2 justify overbroad and onerous discovery requests.

3 That Plaintiffs do not actually “need” this discovery is underscored by the  
4 example Plaintiffs use to demonstrate the City’s purported failure to meet its  
5 discovery obligations. Plaintiffs contend that “the City failed to produce the  
6 complaints for two lawsuits filed against the City of Los Angeles in the year  
7 preceding this case that raise nearly identical factual allegations to the individual  
8 plaintiffs in this case. *See, e.g., Schellenberg v City of Los Angeles*, 2:18-cv-07670-  
9 CAS-PLA, *Cooley v. City of Los Angeles*, 2:18-cv-09053-CAS-PLA (Dkt. 16 at  
10 15-16) and argue that these lawsuits are “highly relevant and exactly the type of  
11 evidence to which Plaintiffs are entitled.” But not only are these lawsuits a matter  
12 of public record, they are the first two suits in a list of many that Plaintiffs include  
13 in their SAC. Lebron Decl. ¶ 2, Ex. 27, SAC at p.6 fn 8.

14 Furthermore, the burden associated with locating, reviewing and producing  
15 “all” such complaints far outweighs any hypothetical probative value of such  
16 documents.

17 Complaints received by LAPD are logged in the Complaint Management  
18 System (“CMS”). Declaration of Miguel Munoz, III (“Munoz Decl.”) ¶1. CMS is a  
19 voluminous database containing over 140,000 complaints. *Id.* Each complaint is  
20 maintained in CMS with a separate complaint file number, and is categorized using  
21 titles for allegation type, such as, but not limited to, conduct unbecoming,  
22 misconduct, or bias. *Id.* CMS does not contain search fields for allegation types  
23 based on seizure or destruction of property as it relates to homelessness. *Id.* A  
24 total of 486 complaints resulted from searching CMS for complaints between April  
25 1, 2016 and December 15, 2020 using the following search terms: Clean-Ups;  
26 Homeless; 1942 Transient; Rapid Response; Health Hazard; Bulky Items; Los  
27 Angeles Sanitation; LASA; Operation Healthy Streets; OHS; Clean Street Los  
28

1 Angeles; CSLA; Resource Enhancement Services Enforcement Team; and RESET.  
2 Munoz Decl. ¶4. LAPD complaints and related materials often contain  
3 confidential information such as victims' names and investigation files can vary in  
4 size and could include 250 pages of documents. Munoz Decl. ¶¶5-6. To review  
5 and redact the 486 complaints identified would require approximately 1,994 hours  
6 of work and would amount to a cost of approximately \$82,736.64. Munoz Decl.  
7 ¶¶5-6.

8 The "Release From Custody Records" (RFC's) that Plaintiffs seek are  
9 similarly burdensome to identify, review, and produce. LAPD stores the original  
10 RFCs in hard copies and maintains a database called the Consolidated Crime  
11 Analysis Database (CCAD) that contains the digital format of this information.  
12 Declaration of Therea Carter ("Carter Decl.") ¶2. For the time period 2016 to the  
13 present, LAPD has approximately 120,622 RFCs that would need to be located and  
14 hand searched to identify the approximately 3,808 RFCs related to LAMC 56.11.  
15 Carter Decl. ¶¶3-4. Assuming it would take a Senior Administrative Clerk  
16 approximately 1 minute to hand search each of the 120,622 RFCs and cross  
17 reference them against the list of 3,808 RFCs relating to LAMC 56.11, with an  
18 additional 3 minutes to separate and copy each RFC, that would take 132,046  
19 minutes, and an additional 4,800 minutes (80 hours) to locate, receive, and return  
20 boxes from storage, for a total of 136,846 minutes (or approximately 95 days).  
21 Carter Decl. ¶5. This translates into some 285 days of staff working an 8 hour shift  
22 to hand search 120,622 RFCs to locate and copy the requested 3,808 RFCs relating  
23 to LAMC 56.11. *Id.* The approximate cost of this, for one Senior Administrative  
24 Clerk, is \$117,550. *Id.*

25 As Plaintiffs concede, the City has offered to compromise and produce  
26 electronically exportable information. Requiring the City to also perform manual  
27 searches is not proportional to the needs of the case.  
28



1 The City incorporates by reference its argument as to RFP 2 as it applies  
2 with equal force here.

3  
4 **REQUEST FOR PRODUCTION NO. 43:**

5 All DOCUMENTS that identify the CITY's capacity to store property seized  
6 pursuant to LAMC 56.11 or as part of an ENCAMPMENT CLEANUP, including  
7 but not limited to any documents that discuss the number of storage  
8 spaces/bins/containers available to store property, or the need for additional  
9 capacity.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

11 Defendant incorporates the General Objections as though fully set forth here.  
12 Defendant objects that the Request seeks documents that are not relevant to  
13 Plaintiff El- Bey's specific claims alleged in the SAC relating to incidents  
14 occurring on or around January 10, 2019 at 6th Street and Alexandria and on or  
15 around June 4, 2019 at Oakwood and Western. Defendant further objects that the  
16 Request seeks documents that are not relevant to any named-plaintiffs' claims as  
17 alleged in the SAC. The Court struck Plaintiff KFA's claims seeking any  
18 declaration that the City unconstitutionally applied LAMC 56.11 or the City's  
19 policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets  
20 KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies  
21 and practices are unconstitutional and not that each past application of those  
22 policies and practices to its members was unconstitutional."). Defendant also  
23 objects that the proposed discovery is not relevant to establishing *Monell* liability  
24 for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument  
25 that "it need only raise a single incident ... to hold the City liable under *Monell*").  
26 Defendant objects that the Request is overbroad and burdensome in seeking all  
27 documents that discuss the City's storage capacity or the need to obtain additional  
28

1 capacity dating back to April 2016, three years before Plaintiff El-Bey's specific  
2 incidents occurred as alleged in the SAC. Defendant also objects to the Request to  
3 the extent the Request seeks information protected from disclosure by the attorney-  
4 client privilege and or attorney work product doctrines. F.R.Civ.P. Rule  
5 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal.  
6 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013  
7 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

8 Defendant further objects that the Request is burdensome and not  
9 proportional to the needs of the case, insofar as the burden of searching for and  
10 producing all documents identifying the City's storage capacity and the need to  
11 obtain additional storage capacity of any storage facility dating back to April 2016  
12 outweighs the benefit of such information for Plaintiff El Bey's specific claims and  
13 Defendant's costs or expense in conducting the search and producing documents  
14 greatly exceeds the amount in controversy for Plaintiff's alleged damages.

15 In order to obtain all documents discussing the City's storage capacity or the  
16 need to obtain additional storage capacity, Defendant would have to investigate the  
17 identity of all potential custodians who may have sent or received communications  
18 regarding the City's storage capacity or the need to obtain additional storage  
19 capacity dating back to April 1, 2016. Defendant would then have to conduct  
20 search parameters for all communications over a four-year period involving all  
21 identified custodians from different City departments.

22 Defendant uses an email system known as CityMail that is based on an  
23 implementation of Google Apps Premier Edition and is used by nearly every City  
24 entity, including 40 different departments. Defendant's CityMail system uses the  
25 Google Vault system for archiving emails. Google Vault is a cloud-based data  
26 storage system; rather than being stored on locally managed servers, the archived  
27 email data is stored on remote servers that are managed by Google, Inc. and are  
28

1 only accessible to Defendant's office via the internet. In order to search the email  
2 archives, Defendant's ITA must formulate a search query utilizing the search terms  
3 and restrictions provided by the requester. Depending on the number and  
4 complexity of search terms, the number of email accounts or document custodians,  
5 and the breadth of the search, ITA may need to formulate more than one search  
6 query and scan the stored data multiple times. When the search completes, Google  
7 Vault provides preliminary information regarding the email data gathered by the  
8 search. In order to access the actual emails, however, the entire store of data must  
9 first be exported from the cloud-servers to a different "download" server to which  
10 ITA can connect via the internet and from which we can then download the data.  
11 Depending on the size of the data, the download process the most time-consuming  
12 part of gathering the email data. Even when ITA allocates multiple personnel to  
13 conduct search queries in order to speed up the archived email search and  
14 collection process, ITA is still limited by the speeds at which the data can be  
15 transferred from the download server to Defendant's local data storage devices. As  
16 downloads of batches of data become available, ITA begins the process of  
17 identifying the email addresses that accompany the data against the list of  
18 individuals identified in the data request and thereafter segregates the email stores  
19 of matching individuals. ITA would also identify and screen emails of City  
20 Attorneys begin the process of identifying and screening-out the emails of city  
21 attorneys and may need to conduct subsequent queries to screen out attorneys for  
22 purposes of compiling a list of excluded emails for a privilege log.

23 In addition, Defendant would need to determine whether a City department  
24 utilizes systems-based network servers that may include network folders used to  
25 store or maintain communications within a particular division or department  
26 section. In order to retrieve systems-based server folders for review, Defendant  
27 would require a technology professional who has administrator privileges to make  
28

1 a copy of the drive(s), which can range in size by terabytes of data. In order to  
2 search certain folders on system-based network drives, a technology professional  
3 who has administrator privileges, would use the Microsoft Windows File Explorer  
4 search function, the limited search function available by default on Windows. The  
5 limited search capabilities of the Windows File Explorer search tool may not be  
6 able to accommodate full searches within documents or Boolean searches. The  
7 resulting hits might include systems files, applications, downloads, or media which  
8 may or may not be viewable. After Defendant has conducted searches for  
9 electronically stored information, Defendant would require the use of an e-  
10 discovery software and platform for Defendant's counsel to review, search, and tag  
11 documents and electronically stored information for responsiveness or privilege.

12 Defendant objects that the Request seeks documents that are not reasonably  
13 accessible based on the undue burden and costs associated with searching for and  
14 producing all communications responsive to this Request for the reasons described  
15 above. Defendant also objects that the proposed discovery is unreasonably  
16 cumulative and can be obtained through less burdensome and less expensive means  
17 to determine the capacity of the City's storage facilities. Without waiving any, and  
18 based on these objections, Defendant will produce documents sufficient to identify  
19 the City's storage capacity, including the number of storage bins for storage  
20 facilities used for storage of homeless people's belongings since January 1, 2019,  
21 but no additional documents will be produced in response to this Request.

22 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

23 Defendant incorporates the General Objections as though fully set forth here.  
24 Defendant objects that the Request seeks documents that are not relevant to  
25 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
26 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
27 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
28

1 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
2 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
3 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
4 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
5 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
6 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
7 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
8 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
9 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
10 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
11 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
12 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
13 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
14 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
15 obtain a ruling that the City's policies and practices are unconstitutional and not  
16 that each past application of those policies and practices to its members was  
17 unconstitutional."). Defendant also objects that the proposed discovery is not  
18 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
19 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
20 to hold the City liable under *Monell*"). Defendant objects that the Request is  
21 overbroad and burdensome in seeking all documents that discuss the City's storage  
22 capacity or the need to obtain additional capacity dating back to April 2016, three  
23 years before Plaintiffs' specific incidents occurred as alleged in the SAC.  
24 Defendant also objects to the Request to the extent the Request seeks information  
25 protected from disclosure by the attorney-client privilege and or attorney work  
26 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
27 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
28

1 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
2 Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing all documents identifying the City's storage capacity and the need to  
6 obtain additional storage capacity of any storage facility dating back to April 2016  
7 outweighs the benefit of such information for Plaintiffs' specific claims and  
8 Defendant's costs or expense in conducting the search and producing documents  
9 greatly exceeds the amount in controversy for Plaintiffs' alleged damages.

10 In order to obtain all documents discussing the City's storage capacity or the  
11 need to obtain additional storage capacity, Defendant would have to investigate the  
12 identity of all potential custodians who may have sent or received communications  
13 regarding the City's storage capacity or the need to obtain additional storage  
14 capacity dating back to April 1, 2016. Defendant would then have to conduct  
15 search parameters for all communications over a four-year period involving all  
16 identified custodians from different City departments.

17 Defendant uses an email system known as CityMail that is based on an  
18 implementation of Google Apps Premier Edition and is used by nearly every City  
19 entity, including 40 different departments. Defendant's CityMail system uses the  
20 Google Vault system for archiving emails. Google Vault is a cloud-based data  
21 storage system; rather than being stored on locally managed servers, the archived  
22 email data is stored on remote servers that are managed by Google, Inc. and are  
23 only accessible to Defendant's office via the internet. In order to search the email  
24 archives, Defendant's ITA must formulate a search query utilizing the search terms  
25 and restrictions provided by the requester. Depending on the number and  
26 complexity of search terms, the number of email accounts or document custodians,  
27 and the breadth of the search, ITA may need to formulate more than one search  
28



1 query and scan the stored data multiple times. When the search completes, Google  
2 Vault provides preliminary information regarding the email data gathered by the  
3 search. In order to access the actual emails, however, the entire store of data must  
4 first be exported from the cloud-servers to a different “download” server to which  
5 ITA can connect via the internet and from which we can then download the data.  
6 Depending on the size of the data, the download process the most time-consuming  
7 part of gathering the email data. Even when ITA allocates multiple personnel to  
8 conduct search queries in order to speed up the archived email search and  
9 collection process, ITA is still limited by the speeds at which the data can be  
10 transferred from the download server to Defendant’s local data storage devices. As  
11 downloads of batches of data become available, ITA begins the process of  
12 identifying the email addresses that accompany the data against the list of  
13 individuals identified in the data request and thereafter segregates the email stores  
14 of matching individuals. ITA would also identify and screen emails of City  
15 Attorneys begin the process of identifying and screening-out the emails of city  
16 attorneys and may need to conduct subsequent queries to screen out attorneys for  
17 purposes of compiling a list of excluded emails for a privilege log.

18 In addition, Defendant would need to determine whether a City department  
19 utilizes systems-based network servers that may include network folders used to  
20 store or maintain communications within a particular division or department  
21 section. In order to retrieve systems-based server folders for review, Defendant  
22 would require a technology professional who has administrator privileges to make  
23 a copy of the drive(s), which can range in size by terabytes of data. In order to  
24 search certain folders on system-based network drives, a technology professional  
25 who has administrator privileges, would use the Microsoft Windows File Explorer  
26 search function, the limited search function available by default on Windows. The  
27 limited search capabilities of the Windows File Explorer search tool may not be  
28

1 able to accommodate full searches within documents or Boolean searches. The  
2 resulting hits might include systems files, applications, downloads, or media which  
3 may or may not be viewable. After Defendant has conducted searches for  
4 electronically stored information, Defendant would require the use of an e-  
5 discovery software and platform for Defendant's counsel to review, search, and tag  
6 documents and electronically stored information for responsiveness or privilege.

7 Defendant objects that the Request seeks documents that are not reasonably  
8 accessible based on the undue burden and costs associated with searching for and  
9 producing all communications responsive to this Request for the reasons described  
10 above. Defendant also objects that the proposed discovery is unreasonably  
11 cumulative and can be obtained through less burdensome and less expensive means  
12 to determine the capacity of the City's storage facilities. Without waiving any, and  
13 based on these objections, Defendant produced documents at CTY004627- 4851  
14 and CTY007476-7477 addressing the City's storage and capacity.

15 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
16 **NO. 43:**

17 Plaintiffs seek the production of documents identifying the City's capacity to  
18 store property seized pursuant to LAMC 56.11 or as part of an encampment  
19 cleanup, and includes any documents that discuss the need for capacity. This  
20 includes, for example, communications, memoranda or other policy documents  
21 that discuss the need for storage. In response to this request, the City identified as  
22 responsive to this request, CTY004627- 4851 and CTY007476-7477, but refused  
23 to produce additional documents. This is wholly inadequate. The City only  
24 produced one document, CTY004842, that relates to the capacity of storage  
25 facilities where the City takes seized property. This single document, which is  
26 undated and lists measurements in terms of "bags", is insufficient. Nor do  
27 Plaintiffs have an alternative source for this information. While Plaintiffs received  
28

1 some documents in response to a Third Party Subpoena to Chrysalis, which  
2 operates the City's storage facility, Chrysalis has represented to Plaintiffs that they  
3 have not retained emails with the City regarding capacity, and the databases they  
4 have provided document only the date retrieved or the date destroyed of  
5 property—they do not identify how much property is stored on a given date.<sup>27</sup>

6 **a. The Documents are Relevant**

7 Documents about the City's capacity to store property seized pursuant to  
8 LAMC 56.11 is relevant to the question of whether and to what extent the City  
9 actually stores the property it impounds or whether it in fact simply destroys it all,  
10 as Plaintiffs allege. In fact, despite the fact that the City argued to this Court that  
11 the issue of storage is irrelevant to this case and then objected on this ground in its  
12 responses to the RFPs, the City itself has the City's storage capacity at issue.  
13 Defendant raised the City's capacity to store property, and even used the very  
14 documents Plaintiffs seek here, to oppose Plaintiffs' motion for a Preliminary  
15 Injunction. *See* Myers Decl., ¶ 20, Exh. K. In its opposition, the City relied on  
16 contentions that it does not have enough capacity to store all the property it wants  
17 to seize. *Id.* (Declaration of Howard Wong at ¶ 50). And the City relied on  
18 evidence about the amount of property stored to support other arguments. Plaintiffs  
19 are entitled to whatever evidence the City has on these issues.

20 **b. The City Refuses to State a Date Certain for the Completion of its**  
21 **Production**

22 As with the rest of the City's written responses addressed here, the City's  
23 response to this request is not consistent with Rule 34. Specifically here, the City  
24 refuses to provide a "reasonable time" by which it will complete production, and  
25

---

26 <sup>27</sup> The documents Chrysalis provided pursuant to the Third Party Subpoena,  
27 namely records of when property was discarded, do not include the storage date of  
28 the property; they include only the discard date and the time the discard was  
entered in the computer system. As far as Plaintiffs can tell, there is not a way to  
extrapolate from the chart of discards the total capacity on a given date.

1 instead, is engaged in an interminable “rolling production,” based on an  
2 investigation that has been ongoing for almost two years. In February 2021, in  
3 response to an interrogatory that sought specific, discrete information about the  
4 City’s storage facility, the City appears to have agreed to produce documents  
5 responsive to this request, stating that “to the extent the City has in its possession  
6 chain of custody forms or other storage related information, it has produced such  
7 documents and intends to procure any additional such document if they are  
8 identified in its investigation or provided to the City by Chrysalis.” The City goes  
9 on to state that it “does not intend to withhold any storage-related documents it  
10 identifies during its investigation.” City’s Amended Response to Interrogatory  
11 No. 4.

12 This is untenable. Rule 34 requires the City to have identified a start and  
13 end time for the production of documents. The City cannot fail to complete the  
14 production of documents because it has not yet completed an investigation into a  
15 case that was filed almost two years ago. Rule 34 requires the production of all  
16 documents in a “reasonable time” that must be identified at the time of the  
17 responses, which in this case was seven months ago. Moreover, this case was  
18 actually filed 19 months ago, and Defendant has had these requests in its  
19 possession since October 2019. A rolling production that drags on for more than six  
20 months, with no end in sight, is simply not allowed under Rule 34. *See* Fed. Rule  
21 Civ. Pro. 34(b)(2)(B); *see also* *Maiorano*, 2017 WL 4792380, at \*2; *Fulfillium*,  
22 2018 WL 6118433, at \*3.

23 **c. The Requests are Not Overbroad or Burdensome**

24 Defendant asserts that the request is overbroad “in seeking all documents  
25 that discuss the City’s storage capacity or the need to obtain additional capacity  
26 dating back to April 2016, three years before Plaintiffs’ specific incidents occurred  
27 as alleged in the SAC.” As discussed in detail, two years and eight months prior  
28

1 to the Specific Incidents is reasonable, given that the date corresponds to when the  
2 City adopted the provisions of LAMC 56.11 that require the impounding of  
3 property. This is necessary to do an analysis of the extent to which the City's  
4 expansion of storage space has kept pace with the City's increased enforcement of  
5 LAMC 56.11. *See Thomas*, 715 F.Supp.2d at 1032 (granting a request for  
6 information going back nearly thirty years, where "in the context of th[e] action,"  
7 the requested information was "necessary to conduct a comparative analysis of the  
8 operation" at issue in the litigation and such analysis was "clearly relevant to  
9 Petitioner's claims"). The request identifies a discrete topic and is time-limited.  
10 The City has produced documents such as spreadsheets summarizing Chrysalis'  
11 storage work for 2018 (CTY 4841) and 2019 (CTY 19492), but not for 2016, 2017,  
12 and 2020 and not for the main Towne Street location where property was stored.  
13 And as discussed above, the City has produced claim forms for part of 2018 and  
14 part of 2019, but not the rest of the relevant time period. Plaintiff requests that this  
15 Court set a date certain for production of the documents.

16 **d. The Request is Proportionate to the Needs of the Case**

17 Given the City's interrogatory response, it appears the City is no longer  
18 challenging the proportionality of this request; to the extent that it does, Plaintiff  
19 reminds the court of the significance of the issues, discussed above, and the  
20 inability of the Plaintiffs to access the City's policies, emails, forms, and storage  
21 receipts in any other way.

22 **i. Importance of the discovery in resolving the issues**

23 The question of whether and to what extent the City stores property it seizes  
24 pursuant to the impound statute is a central issue in this case, both in terms of the  
25 constitutional claims, and Plaintiffs' claims that the City violates Civil Code  
26 Section 2080, which is a state law that requires the storage of any property the City  
27 takes into its possession. The District Court already ruled that the Civil Code is  
28

1 applicable to Plaintiffs claims, and denied Defendant's motion to dismiss this  
2 claim. *See* Myers Decl., Exh. I, February Order. The City's capacity to store  
3 property is therefore critical to resolving this claim.

4 Moreover, *Monell* liability is also a central issue, especially  
5 because Plaintiffs did not bring claims against individual LA Sanitation workers or  
6 LAPD officers and primarily seek injunctive relief. And as discussed above, the  
7 City itself raised the issue of storage and specifically, the City's capacity to store  
8 property in defending against Plaintiffs' facial challenge. The documents may  
9 contain important impeachment evidence, related to the City's contention that, for  
10 example, it seizes property only when there is storage available, or that the City  
11 stores property it impounds. *See Estate of Ernesto Flores*, 2017 WL 3297507, at  
12 \*6; *Paulsen*, 168 F.R.D. at 289.

13 **ii. Whether the burden or expense of the proposed**  
14 **discovery outweighs its likely benefit**

15 Defendant argues that it would be burdensome to produce documents  
16 responsive to this request. Yet this document request is very straightforward,  
17 seeking very specific documents related to a discrete topic that is highly relevant to  
18 this case. The City has no excuse for what it articulates is a burden to respond to  
19 this request: "[L]arge corporations and institutions are expected to have the means  
20 for locating documents requested in legal matters." *In re Citimortgage*, 2012 WL  
21 10450139, at \*4 (quoting *Herring*, 2011 WL 2433672, at \*9).

22 In fact, the process the City describes is no more burdensome than the  
23 burden associated with producing any documents at all. The City spends nearly  
24 two pages laying out what is, in essence nothing more than the routine obligation  
25 of a party to identify responsive discovery: 1) identifying custodians; 2)  
26 formulating searches; 3) running those searches; 4) exporting data; and 5)  
27 screening for privilege. This objection applies only to ESI, not to paper documents  
28 the City may have that are responsive to these requests, but even as to ESI, the



1 steps laid out by the City are “common in litigation,” *Sung Gon Kang*, 2020 WL  
2 1689708, at \*5.

3 It is simply untenable for the City to suggest these steps render this request  
4 burdensome. For example, one of the steps Defendant would need to take is to  
5 “determine whether a City department utilizes systems-based network servers.”  
6 This is the City of Los Angeles, which has a substantial Information Technology  
7 Department, and moreover, is represented by the City Attorney’s office in all of the  
8 cases. This information should be readily available, as it would be implicated in  
9 every single discovery request ever made to the City (to say nothing of the City’s  
10 obligation to produce documents responsive to the California Public Records Act).  
11 “A recipient that is a large or complex organization or that has received a lengthy  
12 or complex document request should be able to demonstrate a procedure for  
13 systemic compliance with the document request.” *In re Citimortgage*, 2012 WL  
14 10450139, at \*4 (quoting *Meeks v. Parsons*, 2009 WL 3003718 at 4 (describing the  
15 steps that would constitute a “reasonable inquiry” in response to routine  
16 discovery)).

17 Here, the City refuses to conduct even this “reasonable inquiry” to identify  
18 responsive documents. There is no basis for this refusal and as such, the City  
19 cannot “show grounds for failing to provide the requested discovery,” which the  
20 City must do to prevail here. *In re: Citymortgage*, 2012 WL 10450139, at \*4.

21 **e. The Request is not Cumulative**

22 Defendant objects that “the proposed discovery is unreasonably cumulative  
23 and can be obtained through less burdensome and less expensive means to  
24 determine the capacity of the City’s storage facilities.” However, in response to  
25 the meet and confer efforts, the City failed to clarify what the request was  
26 “cumulative” of or what “less burdensome” and “less expensive means” Plaintiffs  
27 could use to obtain the capacity of the storage facility. In fact, Plaintiffs did  
28

1 propound an interrogatory asking for that specific information and the City refused  
2 to respond to the question. Instead, it pointed Plaintiffs back to its RFP responses.  
3 And the request seeks documents that contain more information than simply the  
4 capacity of the storage facilities; it also seeks documents that discuss the City's  
5 capacity and the need for any additional capacity. The City has provided no  
6 explanation for its objection that the request is cumulative or how Plaintiffs can  
7 otherwise obtain this information, which itself is not a basis for refusing to respond  
8 to this request.

9 **f. The City has Waived its Other Objections**

10 The City objects "to the extent the Request seeks information protected from  
11 disclosure by the attorney-client privilege and or attorney work product doctrines"  
12 but provides no further details about whether and to what extent the City is  
13 withholding documents on the basis of this privilege. The City fails to provide a  
14 privilege log, and has refused to produce one in the six months since the City  
15 produced written responses and then amended responses. As such, Defendant has  
16 waived any objections it might have had that any documents responsive to this  
17 request were privileged. *See DeSilva*, 2020 WL 5947827, at \*7; *see*  
18 *also Burlington Northern & Santa Fe Ry. Co.*, 408 F.3d at 1149.

19 Similarly, the City has refused to clarify which of the objections (if any)  
20 applied to this request, let alone the facts necessary to support its application, even  
21 after months of requests by Plaintiffs for the City to do so as required by Rule  
22 34. The City has therefore waived the objection. *See e.g., Bosley*, 2016 WL  
23 1704159, at \*5 (Defendant waived blanket objections by failing to provide details  
24 of the objections as required by Rule 34(b)(2)(B)).

25 **g. Plaintiffs' Request for Relief**

26 Plaintiffs are entitled to an order compelling the City to produce  
27 all documents responsive to RFP No. 43 within 21 days, or if applicable, to compel  
28

1 Defendant to provide a complete, explicit response as to the finality of their  
2 production with respect to specific individual Plaintiffs, as required by Rule 34.

3 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**

4 **NO. 43:**

5 RFP 43 asks for “All DOCUMENTS that identify the CITY’s capacity to  
6 store property seized pursuant to LAMC 56.11 or as part of an ENCAMPMENT  
7 CLEANUP, including but not limited to any documents that discuss the number of  
8 storage spaces/bins/containers available to store property, or the need for additional  
9 capacity [2016 to present]. (Emphasis added).

10 Plaintiffs have not met their burden to show the relevance of the requested  
11 documents. Plaintiffs argue that “documents about the City’s capacity to store  
12 property seized pursuant to LAMC 56.11 is relevant to the question of whether and  
13 to what extent the City actually stores the property it impounds or whether it in fact  
14 simply destroys it all, as Plaintiffs allege.” The City’s capacity to store, in the  
15 abstract, dating from 2016, has no bearing on whether Plaintiffs’ rights were  
16 violated. And even if documents discussing the City’s storage capacity in the  
17 abstract were relevant, they would not be probative of “whether and to what extent  
18 the City actually stores the property it impounds.” In addition, the Court held that  
19 as a matter of law, the City’s capacity to store is not relevant to the constitutional  
20 analysis in this case.

21 Even if Plaintiffs had articulated a valid relevance theory, this request  
22 is not properly directed toward the City and not proportional to the needs of the  
23 case. Because the law and analysis as to proportionality are equally applicable  
24 here, Defendant incorporates by reference its argument as to RFP 2. The primary  
25 facility at which items removed during cleanups are stored is the Bin. The Bin is  
26 operated by Chrysalis, an independent contractor that provides involuntary and  
27 voluntary storage for homeless individuals under an agreement with LAHSA.  
28

1 Wong Decl. at ¶14. ECIs deliver non-hazardous property to storage and complete  
2 a chain of custody form transferring custody of property at the storage facility to  
3 Chrysalis. *Id.* Following the transfer, Chrysalis handles the storage, return and  
4 disposition of the property and maintains its own storage records. *Id.* LSD does  
5 not track that information following the transfer of custody at the storage facility.  
6 *Id.*

7 On December 8, 2020, Plaintiffs served a subpoena on Chrysalis requesting  
8 similar information requested by this RFP. Ursea Decl. ¶44, Ex. 24. Chrysalis  
9 responded and produced documents on February 15, 2021. Ursea Decl. ¶45, Ex.  
10 26. *See* Fed. R. Civ. Proc. 26(b)(2) (A court “must limit the frequency or extent of  
11 discovery allowed by these rules or by local rule if it determines that: (i) the  
12 discovery sought is unreasonably cumulative or duplicative, or can be obtained  
13 through some other source that is more convenient, less burdensome, or less  
14 expensive; ...); *Caballero v. Bodega Latina Corp.*, Case No. 2:17cv-00236-JAD-  
15 VCF, 2017 U.S. Dist. LEXIS 116869, at \* 8 (D. Nev. Jul. 25, 2017) (“Courts, thus,  
16 have a duty to pare down overbroad discovery requests under Rule 26(b)(2).”).

17 Moreover, despite the fact that the relevance of storage capacity in the  
18 abstract since 2016 is far from clear, storage of items removed during encampment  
19 cleanups is not tracked by the City, and the City has reasonably compromised on  
20 storage-related discovery requests. Before Plaintiffs issued the subpoena to  
21 Chrysalis, the City agreed to work with Chrysalis to obtain responsive documents.  
22 Ursea Decl. ¶12(d). The City also agreed to search emails for custodians identified  
23 by Plaintiffs using search terms proposed by Plaintiffs, including Chrysalis, the  
24 Bin, and storage. Ursea Decl. ¶¶19, 23, 32, 34, 37, 43. The City collected over  
25 500,000 emails using the Plaintiffs’ requested custodians and search terms. The  
26 City’s e-discovery vendor recently loaded a data set of 475,000 emails. While the  
27 parties had initially agreed to meet and confer regarding this data set, Plaintiffs  
28

1 served this stipulation while the City was in the process of producing documents  
2 from the first 70,000 emails. Ursea Decl. ¶¶37-42. Furthermore, the City has  
3 repeatedly told Plaintiffs that it has not withheld non-privileged responsive  
4 documents that were uncovered during its investigation, even if the documents pre-  
5 dated the Plaintiffs' incidents. Ursea Decl. ¶¶8, 21(d).

6 Even if abstract storage capacity documents had some minimal probative  
7 value, the request for all such documents, from 2016 to present, is not proportional  
8 to the needs of this case. The City incorporates by reference its responses to RFP 2  
9 and RFP 16, which apply with equal force here.

10  
11 **REQUEST FOR PRODUCTION NO. 44:**

12 All DOCUMENTS that identify or discuss any change in the CITY's  
13 capacity to store property seized pursuant to LAMC 56.11 or as part of  
14 ENCAMPMENT CLEANUPS, including but not limited to any documents that  
15 discuss any increase/decrease in the number of STORAGE FACILITIES or change  
16 in capacity of existing STORAGE FACILITIES.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

18 Defendant incorporates the General Objections as though fully set forth here.  
19 Defendant objects that the Request seeks documents that are not relevant to  
20 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
21 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
22 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
23 documents that are not relevant to any named-plaintiffs' claims as alleged in the  
24 SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
25 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
26 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
27 SAC as seeking only to obtain a ruling that the City's policies and practices are  
28

1 unconstitutional and not that each past application of those policies and practices to  
2 its members was unconstitutional.”). Defendant also objects that the proposed  
3 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
4 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
5 single incident ... to hold the City liable under *Monell*.”). Defendant objects that  
6 the Request is overbroad and burdensome in seeking all documents that discuss the  
7 City’s storage capacity or changes to the storage capacity dating back to April  
8 2016, three years before Plaintiff El-Bey’s specific incidents occurred as alleged in  
9 the SAC. Defendant also objects to the Request to the extent the Request seeks  
10 information protected from disclosure by the attorney-client privilege and or  
11 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
12 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
13 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
14 15-17 (C.D. Cal. Sep. 9, 2013).

15 Defendant further objects that the Request is burdensome and not  
16 proportional to the needs of the case, insofar as the burden of searching for and  
17 producing all documents identifying the City’s storage capacity and storage  
18 capacity or changes in the storage capacity dating back to April 2016 outweighs  
19 the benefit of such information for Plaintiff El Bey’s specific claims and  
20 Defendant’s costs or expense in conducting the search and producing documents  
21 greatly exceeds the amount in controversy for Plaintiff’s alleged damages.\

22 In order to obtain all documents discussing the City’s storage capacity  
23 storage capacity or changes to the storage capacity, Defendant would have to  
24 investigate the identity of all potential custodians who may have sent or received  
25 communications regarding the City’s storage capacity or changes to the storage  
26 capacity dating back to April 1, 2016. Defendant would then have to conduct  
27  
28



1 search parameters for all communications over a four-year period involving all  
2 identified custodians from different City departments.

3 Defendant uses an email system known as CityMail that is based on an  
4 implementation of Google Apps Premier Edition and is used by nearly every City  
5 entity, including 40 different departments. Defendant's CityMail system uses the  
6 Google Vault system for archiving emails. Google Vault is a cloud-based data  
7 storage system; rather than being stored on locally managed servers, the archived  
8 email data is stored on remote servers that are managed by Google, Inc. and are  
9 only accessible to Defendant's office via the internet. In order to search the email  
10 archives, Defendant's ITA must formulate a search query utilizing the search terms  
11 and restrictions provided by the requester. Depending on the number and  
12 complexity of search terms, the number of email accounts or document custodians,  
13 and the breadth of the search, ITA may need to formulate more than one search  
14 query and scan the stored data multiple times. When the search completes, Google  
15 Vault provides preliminary information regarding the email data gathered by the  
16 search. In order to access the actual emails, however, the entire store of data must  
17 first be exported from the cloud-servers to a different "download" server to which  
18 ITA can connect via the internet and from which we can then download the data.  
19 Depending on the size of the data, the download process the most time-consuming  
20 part of gathering the email data. Even when ITA allocates multiple personnel to  
21 conduct search queries in order to speed up the archived email search and  
22 collection process, ITA is still limited by the speeds at which the data can be  
23 transferred from the download server to Defendant's local data storage devices. As  
24 downloads of batches of data become available, ITA begins the process of  
25 identifying the email addresses that accompany the data against the list of  
26 individuals identified in the data request and thereafter segregates the email stores  
27 of matching individuals. ITA would also identify and screen emails of City  
28

1 Attorneys begin the process of identifying and screening-out the emails of city  
2 attorneys and may need to conduct subsequent queries to screen out attorneys for  
3 purposes of compiling a list of excluded emails for a privilege log.

4 In addition, Defendant would need to determine whether a City department  
5 utilizes systems-based network servers that may include network folders used to  
6 store or maintain communications within a particular division or department  
7 section. In order to retrieve systems-based server folders for review, Defendant  
8 would require a technology professional who has administrator privileges to make  
9 a copy of the drive(s), which can range in size by terabytes of data. In order to  
10 search certain folders on system-based network drives, a technology professional  
11 who has administrator privileges, would use the Microsoft Windows File Explorer  
12 search function, the limited search function available by default on Windows. The  
13 limited search capabilities of the Windows File Explorer search tool may not be  
14 able to accommodate full searches within documents or Boolean searches. The  
15 resulting hits might include systems files, applications, downloads, or media which  
16 may or may not be viewable. After Defendant has conducted searches for  
17 electronically stored information, Defendant would require the use of an e-  
18 discovery software and platform for Defendant's counsel to review, search, and tag  
19 documents and electronically stored information for responsiveness or privilege.

20 Defendant objects that the Request seeks documents that are not reasonably  
21 accessible based on the undue burden and costs associated with searching for and  
22 producing all communications responsive to this Request for the reasons described  
23 above. Defendant also objects that the proposed discovery is unreasonably  
24 cumulative and can be obtained through less burdensome and less expensive means  
25 to determine changes to the City's storage capacity. Without waiving any, and  
26 based on these objections, Defendant will produce documents sufficient to identify  
27 the City's storage capacity, including the number of storage bins for storage  
28

1 facilities used for storage of homeless people's belongings since January 1, 2019,  
2 but no additional documents will be produced in response to this Request.

3 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

4 Defendant incorporates the General Objections as though fully set forth here.  
5 Defendant objects that the Request seeks documents that are not relevant to  
6 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
7 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
8 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
9 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
10 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
11 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
12 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
13 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
14 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
15 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
16 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
17 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
18 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
19 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
20 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
21 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
22 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
23 obtain a ruling that the City's policies and practices are unconstitutional and not  
24 that each past application of those policies and practices to its members was  
25 unconstitutional."). Defendant also objects that the proposed discovery is not  
26 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
27 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
28

1 to hold the City liable under *Monell*.”). Defendant objects that the Request is  
2 overbroad and burdensome in seeking all documents that discuss the City’s storage  
3 capacity or changes to the storage capacity dating back to April 2016, three years  
4 before Plaintiffs’ specific incidents occurred as alleged in the SAC. Defendant also  
5 objects to the Request to the extent the Request seeks information protected from  
6 disclosure by the attorney-client privilege and or attorney work product doctrines.  
7 F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*, 219 F.R.D. 503,  
8 \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case No. CV 10-7181  
9 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal. Sep. 9, 2013).

10 Defendant further objects that the Request is burdensome and not  
11 proportional to the needs of the case, insofar as the burden of searching for and  
12 producing all documents identifying the City’s storage capacity and storage  
13 capacity or changes in the storage capacity dating back to April 2016 outweighs  
14 the benefit of such information for Plaintiffs’ specific claims and Defendant’s costs  
15 or expense in conducting the search and producing documents greatly exceeds the  
16 amount in controversy for Plaintiff’s alleged damages.

17 In order to obtain all documents discussing the City’s storage capacity  
18 storage capacity or changes to the storage capacity, Defendant would have to  
19 investigate the identity of all potential custodians who may have sent or received  
20 communications regarding the City’s storage capacity or changes to the storage  
21 capacity dating back to April 1, 2016. Defendant would then have to conduct  
22 search parameters for all communications over a four-year period involving all  
23 identified custodians from different City departments.

24 Defendant uses an email system known as CityMail that is based on an  
25 implementation of Google Apps Premier Edition and is used by nearly every City  
26 entity, including 40 different departments. Defendant’s CityMail system uses the  
27 Google Vault system for archiving emails. Google Vault is a cloud-based data  
28

1 storage system; rather than being stored on locally managed servers, the archived  
2 email data is stored on remote servers that are managed by Google, Inc. and are  
3 only accessible to Defendant's office via the internet. In order to search the email  
4 archives, Defendant's ITA must formulate a search query utilizing the search terms  
5 and restrictions provided by the requester. Depending on the number and  
6 complexity of search terms, the number of email accounts or document custodians,  
7 and the breadth of the search, ITA may need to formulate more than one search  
8 query and scan the stored data multiple times. When the search completes, Google  
9 Vault provides preliminary information regarding the email data gathered by the  
10 search. In order to access the actual emails, however, the entire store of data must  
11 first be exported from the cloud-servers to a different "download" server to which  
12 ITA can connect via the internet and from which we can then download the data.  
13 Depending on the size of the data, the download process the most time-consuming  
14 part of gathering the email data. Even when ITA allocates multiple personnel to  
15 conduct search queries in order to speed up the archived email search and  
16 collection process, ITA is still limited by the speeds at which the data can be  
17 transferred from the download server to Defendant's local data storage devices. As  
18 downloads of batches of data become available, ITA begins the process of  
19 identifying the email addresses that accompany the data against the list of  
20 individuals identified in the data request and thereafter segregates the email stores  
21 of matching individuals. ITA would also identify and screen emails of City  
22 Attorneys begin the process of identifying and screening-out the emails of city  
23 attorneys and may need to conduct subsequent queries to screen out attorneys for  
24 purposes of compiling a list of excluded emails for a privilege log.

25 In addition, Defendant would need to determine whether a City department  
26 utilizes systems-based network servers that may include network folders used to  
27 store or maintain communications within a particular division or department  
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1 section. In order to retrieve systems-based server folders for review, Defendant  
2 would require a technology professional who has administrator privileges to make  
3 a copy of the drive(s), which can range in size by terabytes of data. In order to  
4 search certain folders on system-based network drives, a technology professional  
5 who has administrator privileges, would use the Microsoft Windows File Explorer  
6 search function, the limited search function available by default on Windows. The  
7 limited search capabilities of the Windows File Explorer search tool may not be  
8 able to accommodate full searches within documents or Boolean searches. The  
9 resulting hits might include systems files, applications, downloads, or media which  
10 may or may not be viewable. After Defendant has conducted searches for  
11 electronically stored information, Defendant would require the use of an e-  
12 discovery software and platform for Defendant's counsel to review, search, and tag  
13 documents and electronically stored information for responsiveness or privilege.

14 Defendant objects that the Request seeks documents that are not reasonably  
15 accessible based on the undue burden and costs associated with searching for and  
16 producing all communications responsive to this Request for the reasons described  
17 above. Defendant also objects that the proposed discovery is unreasonably  
18 cumulative and can be obtained through less burdensome and less expensive means  
19 to determine changes to the City's storage capacity. Without waiving any, and  
20 based on these objections, Defendant produced documents at CTY004627- 4851  
21 and CTY007476-7477 addressing the City's storage and capacity.

22 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

23 **NO. 44:**

24 Plaintiffs seek the production of communications and other policy  
25 documents regarding any increase in the City's capacity to store property seized  
26 pursuant to LAMC 56.11 or as part of an encampment cleanup. These documents  
27 are highly relevant because they pertain to one of the central issues in the case  
28



1 against the City, namely the City's ability to adequately store seized property, and  
2 what City officials knew about the storage capacity that was available. Defendants  
3 have stated in response to later interrogatories that they are not withholding any  
4 storage-related documents that they have found, and that they are producing all  
5 documents related to capacity. But they have not transmitted, or withheld as  
6 privileged, any emails discussing the City's capacity or any policy reports or  
7 documents that identify the City's capacity. Plaintiffs are seeking information  
8 about when changes in capacity were made, relative to decisions to increase  
9 enforcement of LAMC 56.11.

10 The documents the City has produced in response to date are wholly  
11 inadequate. Nor do Plaintiffs have an alternative source for this information.  
12 While Plaintiffs received some documents from the storage operator, Chrysalis,  
13 Chrysalis has represented to Plaintiffs that they have not retained emails with the  
14 City regarding capacity, and the databases they have provided are all either of  
15 picked up property or of destroyed property—they do not identify how much  
16 property is stored on a given date. But the City has relied on contentions that it  
17 does not have enough capacity to store all the property it wants to seize. *See See*  
18 *e.g.*, Myers Decl., ¶ 20, Exh. K at ¶ 47.

19 The issue of emails is addressed above in, *inter alia*, RFPs 16, 23, 26, and  
20 29, and is incorporated here. Communications that discuss the City's increase in  
21 capacity for storage and those showing the City's storage capacity are relevant for  
22 the same reasons as the other documents such as storage receipts and data  
23 underlying the assertion by the City's personnel that it would be impossible to  
24 store bulky items and allegedly hazardous items.

25 **a. The Documents are Relevant**

26 The City itself concedes that the capacity and storage documents are  
27 relevant, as it relied upon them previously in this case. In its opposition to  
28

1 Plaintiff's preliminary injunction, the City included quantitative summaries of data.  
2 *See e.g.*, Myers Decl., ¶ 20, Exh. K at ¶ 53. At a conference call on November 16,  
3 2020, to meet and confer, Plaintiffs requested that the City produce the raw data  
4 that was used to create the spreadsheets used by the City and filed with the Court.  
5 *See* Fed. Rule Evid. 1006 (requiring a party using a summary to produce the  
6 underlying data). The City indicated it was unaware of the source of the data used  
7 by the City in its opposition and would reach out to Chrysalis, the likely custodian  
8 of this data. The City indicated it would be willing to track down and gather the  
9 location of all such responsive qualitative and quantitative data for production to  
10 Plaintiffs. To date, the City has failed to produce the requested information.

11 **b. The City Refuses to State a Date Certain for the Completion of its**  
12 **Production**

13 As with the rest of the City's written responses addressed here, the City's  
14 response to this request is not consistent with Rule 34. *See* Plaintiffs' Argument re:  
15 RFP No. 2. Specifically, here, the City refuses to provide a "reasonable time" by  
16 which it will complete production, and instead, is engaged in an interminable  
17 "rolling production," based on an investigation that has been ongoing for almost  
18 two years. In February 2021, in response to an interrogatory that sought specific,  
19 discrete information about the City's storage facility, the City appears to have  
20 agreed to produce documents responsive to this request, stating that "to the extent  
21 the City has in its possession chain of custody forms or other storage related  
22 information, it has produced such documents and intends to procure any additional  
23 such document if they are identified in its investigation or provided to the City by  
24 Chrysalis." The City goes on to state that it "does not intend to withhold any  
25 storage-related documents it identifies during its investigation." *See* Myers Decl.,  
26 Exh. AN.

27 This is untenable. Rule 34 requires the City to have identified a start and  
28 end time for the production of documents. The City cannot fail to complete the

1 production of documents because it has not yet completed an investigation into a  
2 case that was filed almost two years ago. Rule 34 requires the production of all  
3 documents in a “reasonable time” that must be identified at the time of the  
4 responses, which in this case was seven months ago. Moreover, this case was  
5 actually filed 19 months ago, and Defendant has had these requests in its  
6 possession since October 2019. A rolling production that drags on for more than six  
7 months, with no end in sight, is simply not allowed under Rule 34. *See* Fed. R.  
8 Civ. P. 34(b)(2)(B); *see also* *Maiorano*, 2017 WL 4792380, at \*2; *Fulfillium*, 2018  
9 WL 6118433, at \*3.

10 **c. The Requests are Not Overbroad or Burdensome**

11 Defendant asserts that the request is overbroad “in seeking all documents  
12 that discuss the City’s storage capacity or changes to the storage capacity dating  
13 back to April 2016, three years before Plaintiffs’ specific incidents occurred as  
14 alleged in the SAC.” As discussed in detail, two years and eight months prior to  
15 the Specific Incidents is reasonable, given that the date corresponds to when the  
16 City adopted the provisions of LAMC 56.11 that require the impounding of  
17 property. This is necessary to do an analysis of the extent to which the City’s  
18 expansion of storage space has kept pace with the City’s increased enforcement of  
19 LAMC 56.11. *See Thomas*, 715 F. Supp. 2d at 1032 (granting a request for  
20 information going back nearly thirty years, where “in the context of th[e] action,”  
21 the requested information was “necessary to conduct a comparative analysis of the  
22 operation” at issue in the litigation and such analysis was “clearly relevant to  
23 Petitioner’s claims”). The request identifies a discrete topic and is time-limited.  
24 The City has produced documents such as spreadsheets summarizing Chrysalis’  
25 storage work for 2018 (CTY 4841) and 2019 (CTY 19492), but not for 2016, 2017,  
26 and 2020 and not for the main Towne Street location where property was stored.  
27 And as discussed above, the City has produced claim forms for part of 2018 and  
28

1 part of 2019, but not the rest of the relevant time period. Plaintiff requests that this  
2 Court set a date certain for production of the documents.

3 **d. The Request is Proportionate to the Needs of the Case**

4 As discussed in detail above, the issues at stake in this litigation are of  
5 constitutional significance; the amount of controversy is largely irrelevant given  
6 that Plaintiffs primarily seek prospective relief to put an end to the City's  
7 unconstitutional practices; the City of Los Angeles has far more resources than the  
8 seven unhoused individuals whose belongings were seized and the volunteer  
9 organization whose resources go to replacing those belongings, and the City  
10 controls access to this information. *See supra* Plaintiffs' Argument re: RFP No. 2.  
11 The other factors also weigh heavily in Plaintiffs' favor. *See* Fed. R. Civ. P.  
12 26(b)(1). As the City intends to use these documents to support its own position,  
13 there is no question that it is proportional to provide the documents to Plaintiffs.

14 **i. Importance of the discovery in resolving the issues**

15 The question of whether and to what extent the City stores property it seizes  
16 pursuant to the impound statute is a central issue in this case. It is important both in  
17 terms of the constitutional claims and Plaintiffs' claims that the City violates Civil  
18 Code Section 2080, which is a state law that requires the storage of any property  
19 the City takes into its possession, and which the District Court already ruled is at  
20 issue in this case. *See* Myers Decl., Exh. I, February Order at 29-30.

21 Moreover, *Monell* liability is also a central issue, especially  
22 because Plaintiffs did not bring claims against individual LA Sanitation workers or  
23 LAPD officers and primarily seek injunctive relief. And as discussed above, the  
24 City itself raised the issue of storage and specifically, the City's capacity to store  
25 property in defending against Plaintiffs' facial challenge. The documents may  
26 contain important impeachment evidence, related to the City's contention that, for  
27 example, it seizes property only when there is storage available, or that the City  
28

1 stores property it impounds. *See Estate of Ernesto Flores*, 2017 WL 3297507, at  
2 \*6; *Paulsen*, 168 F.R.D. at 289.

3 **ii. Whether the burden or expense of the proposed**  
4 **discovery outweighs its likely benefit**

5 Defendant argues that it would be burdensome to produce documents  
6 responsive to this request. Yet this document request is very straightforward,  
7 seeking very specific documents related to a discrete topic that is highly relevant to  
8 this case. The City has no excuse for what it articulates is a burden to respond to  
9 this request: “[L]arge corporations and institutions are expected to have the means  
10 for locating documents requested in legal matters.” *In re Citimortgage*, 2012 WL  
11 10450139, at \*4 (quoting *Herring*, 2011 WL 2433672, at \*9).

12 In fact, the process the City describes is no more burdensome than the  
13 burden associated with producing any documents at all. The City spends nearly  
14 two pages laying out what are, in essence nothing more than the routine obligation  
15 of a party to identify responsive discovery: 1) identifying custodians; 2)  
16 formulating searches; 3) running those searches; 4) exporting data; and 5)  
17 screening for privilege. This objection applies only to ESI, not to paper documents  
18 the City may have that are responsive to these requests, but even as to ESI, the  
19 steps laid out by the City are “common in litigation,” *Sung Gon Kang*, 2020 WL  
20 1689708, at \*5.

21 It is simply untenable for the City to suggest these steps render this request  
22 burdensome. For example, one of the steps Defendant would need to take is to  
23 “determine whether a City department utilizes systems-based network servers.”  
24 This is the City of Los Angeles, which has a substantial Information Technology  
25 Department, and moreover, is represented by the City Attorney’s office in all of the  
26 cases. This information should be readily available, as it would be implicated in  
27 every single discovery request ever made to the City (to say nothing of the City’s  
28 obligation to produce documents responsive to the California Public Records Act).

1 “A recipient that is a large or complex organization or that has received a lengthy  
2 or complex document request should be able to demonstrate a procedure for  
3 systemic compliance with the document request.” *In re Citimortgage*, 2012 WL  
4 10450139, at \*4 (quoting *Meeks v. Parsons*, 2009 WL 3003718 at 4 (describing the  
5 steps that would constitute a “reasonable inquiry” in response to routine  
6 discovery)).

7 Here, the City refuses to conduct even this “reasonable inquiry” to identify  
8 responsive documents. There is no basis for this refusal and as such, the City  
9 cannot “show grounds for failing to provide the requested discovery,” which the  
10 City must do to prevail here. *In re: Citymortgage*, 2012 WL 10450139, at \*4.

11 **e. The Request is not Cumulative**

12 Defendant objects that “the proposed discovery is unreasonably cumulative  
13 and can be obtained through less burdensome and less expensive means to  
14 determine the capacity of the City’s storage facilities.” However, in response to  
15 the meet and confer efforts, the City failed to clarify what the request was  
16 “cumulative” of or what “less burdensome” and “less expensive means” Plaintiffs  
17 could use to obtain the capacity of the storage facility. In fact, Plaintiffs did  
18 propound an interrogatory asking for that specific information and the City refused  
19 to respond to the question. Instead, it pointed Plaintiffs back to its RFP responses.  
20 And the request seeks documents that contain more information than simply the  
21 capacity of the storage facilities; it also seeks documents that discuss the City’s  
22 capacity and the need for any additional capacity. The City has provided no  
23 explanation for its objection that the request is cumulative or how Plaintiffs can  
24 otherwise obtain this information, which itself is not a basis for refusing to respond  
25 to this request.



**f. The City has Waived its Other Objections**

The City objects “to the extent the Request seeks information protected from disclosure by the attorney-client privilege and or attorney work product doctrines” but provides no further details about whether and to what extent the City is withholding documents on the basis of this privilege. The City fails to provide a privilege log, and has refused to produce one in the six months since the City produced written responses and then amended responses. As such, Defendant has waived any objections it might have had that any documents responsive to this request were privileged. *See DeSilva*, 2020 WL 5947827, at \*7; *see also Burlington Northern & Santa Fe Ry. Co.*, 48 F.3d at 1149.

Similarly, with the City’s boilerplate general objections, the City has refused to clarify which of the objections (if any) applied to this request, let alone the facts necessary to support its application, even after months of requests by Plaintiffs for the City to do so as required by Rule 34. The City has therefore waived the objection. *See e.g., Bosley*, 2016 WL 1704159, at \*5, n. 3 (Defendant waived blanket objections by failing to provide details of the objections as required by Rule 34(b)(2)(B)).

**g. Plaintiffs’ Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 44 within 21 days or where applicable, to compel Defendant to provide a complete, explicit response as to the finality of their production with respect to specific individual Plaintiffs, as required by Rule 34.

**DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 44:**

RFP 44 asks for “All DOCUMENTS that identify or discuss any change in the CITY’s capacity to store property seized pursuant to LAMC 56.11 or as part of ENCAMPMENT CLEANUPS, including but not limited to any documents that

1 discuss any increase/decrease in the number of STORAGE FACILITIES or change  
2 in capacity of existing STORAGE FACILITIES [2016 to present].” (Emphasis  
3 added).

4 As with RFP 43, which seeks documents related to abstract storage capacity,  
5 Plaintiffs have not articulated the relevance of such documents, and even if they  
6 did, the request is not proportional to the needs of the case. Plaintiffs make the  
7 same arguments as they did for RFP 43. The City incorporates by reference its  
8 responses to RFP 2, RFP 16, and RFP 43.

9 **REQUEST FOR PRODUCTION NO. 45:**

10 All statistics, reports, analysis, or data compilations related to the use or  
11 capacity of STORAGE FACILITIES.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

13 Defendant incorporates the General Objections as though fully set forth here.  
14 Defendant objects that the Request seeks documents that are not relevant to  
15 Plaintiff El-Bey’s specific claims alleged in the SAC relating to incidents occurring  
16 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
17 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
18 documents that are not relevant to any named-plaintiffs’ claims as alleged in the  
19 SAC. The Court struck Plaintiff KFA’s claims seeking any declaration that the  
20 City unconstitutionally applied LAMC 56.11 or the City’s policies or practices to  
21 KFA’s members. Dkt. No. 65 at 7 (“[T]he Court interprets KFA’s claims in the  
22 SAC as seeking only to obtain a ruling that the City’s policies and practices are  
23 unconstitutional and not that each past application of those policies and practices to  
24 its members was unconstitutional.”). Defendant also objects that the proposed  
25 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
26 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
27 single incident ... to hold the City liable under *Monell*.”). Defendant objects that  
28

1 the Request is overbroad and burdensome in seeking all statistics, reports, analysis,  
2 or data compilations relate to the use of storage capacity dating back to April 2016,  
3 three years before Plaintiff El-Bey's specific incidents occurred as alleged in the  
4 SAC. Defendant also objects to the Request to the extent the Request seeks  
5 information protected from disclosure by the attorney-client privilege and or  
6 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
7 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
8 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
9 15-17 (C.D. Cal. Sep. 9, 2013).

10 Defendant further objects that the Request is burdensome and not  
11 proportional to the needs of the case, insofar as the burden of searching for and  
12 producing all statistics, reports, analysis, or data compilations relate to the use of  
13 storage capacity dating back to April 2016 outweighs the benefit of such  
14 information for Plaintiff El Bey's specific claims. Defendant also objects that the  
15 proposed discovery is unreasonably cumulative and can be obtained through less  
16 burdensome and less expensive means to determine the use or capacity of storage  
17 facilities. Without waiving any, and based on these objections, Defendant will  
18 produce documents sufficient to show the use or capacity of storage facilities used  
19 for homeless people's belongings since January 1, 2019, but no additional  
20 documents will be produced in response to this Request.

21 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

22 Defendant incorporates the General Objections as though fully set forth here.  
23 Defendant objects that the Request seeks documents that are not relevant to  
24 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
25 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
26 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
27 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
28

1 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
2 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
3 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
4 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
5 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
6 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
7 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
8 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
9 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
10 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
11 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
12 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
13 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
14 obtain a ruling that the City's policies and practices are unconstitutional and not  
15 that each past application of those policies and practices to its members was  
16 unconstitutional."). Defendant also objects that the proposed discovery is not  
17 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
18 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
19 to hold the City liable under *Monell*"). Defendant objects that the Request is  
20 overbroad and burdensome in seeking all statistics, reports, analysis, or data  
21 compilations relate to the use of storage capacity dating back to April 2016, three  
22 years before Plaintiffs' specific incidents occurred as alleged in the SAC.  
23 Defendant also objects to the Request to the extent the Request seeks information  
24 protected from disclosure by the attorney-client privilege and or attorney work  
25 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
26 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
27  
28

1 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
2 Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing all statistics, reports, analysis, or data compilations relate to the use of  
6 storage capacity dating back to April 2016 outweighs the benefit of such  
7 information for Plaintiffs' specific claims. Defendant also objects that the proposed  
8 discovery is unreasonably cumulative and can be obtained through less  
9 burdensome and less expensive means to determine the use or capacity of storage  
10 facilities. Without waiving any, and based on these objections, Defendant produced  
11 summaries of total amounts of property removed, stored, recovered or discarded  
12 for 2019 and 2020 at CTY004627- 4851 and is willing to conduct additional meet-  
13 and-confer with Plaintiffs regarding their request for underlying storage data.

14 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

15 **NO. 45:**

16 Similar to RFPs 35 and 36, Plaintiffs seek reports, statistics, analysis, and  
17 other documents related to the use or capacity of the storage facilities used to store  
18 property impounded under LAMC 56.11. This would include, for example, any  
19 reports analyzing the sufficiency of the capacity of the City's storage facilities, any  
20 utilization rates of the facility, and any reports documenting the need to expand the  
21 City's capacity for storage consistent with its increased enforcement of LAMC  
22 56.11. As with all other requests, the City initially objected that the documents  
23 sought are neither relevant nor proportionate to the needs of the case. Even after  
24 meeting and conferring, Defendant refused to produce any documents responsive  
25 to the request. In its Amended Response, Defendant states only that "Defendant  
26 produced summaries of total amounts of property removed, stored, recovered or  
27 discarded for 2019 and 2020 at CTY004627- 4851 and is willing to conduct  
28

1 additional meet-and-confer with Plaintiffs regarding their request for underlying  
2 storage data.” Since then, Defendant has produced additional documents but has  
3 not provided a response that complies with Rule 34. In response to interrogatories,  
4 the City has essentially withdrawn its objections, stating categorically that it is not  
5 withholding any storage-related documents and will produce them pending an  
6 investigation. *See* Myers Decl., ¶ 61, Exh. AN. But the City has not set a date for  
7 the conclusion of its investigation, and what it has produced is quite obviously  
8 piecemeal and incomplete. Plaintiffs are entitled to a date certain for the production  
9 of the rest of the documents.

10 **a. Reports and Analysis Regarding the City’s Encampment Cleanup**  
11 **Program are Relevant**

12 Although the City has long objected to the relevance of the City’s storage  
13 facilities, the City itself conceded its relevance when it argued that the City’s  
14 storage capacity was relevant to its defense of Plaintiffs’ motion for a preliminary  
15 injunction. And in fact, the City used documents it had previously refused to  
16 produce, in support of that defense. The City cannot cherry-pick which documents  
17 it will use in its defense and produce only those documents in response to  
18 Plaintiff’s discovery requests. That is anathema to the discovery process, and a  
19 clear example of why the City’s indefensibly narrow view of what is relevant to  
20 this case is wholly without merit.

21 **b. Defendant’s Written Response Does Not Comply With Rule 34**

22 The City’s Amended Response to this RFP does not comply in any way with  
23 Federal Rule of Civil Procedure Rule 34(b)(2). In its Amended Response,  
24 Defendant states only that “Defendant produced summaries of total amounts of  
25 property removed, stored, recovered or discarded for 2019 and 2020 at  
26 CTY004627- 4851 and is willing to conduct additional meet-and-confer with  
27 Plaintiffs regarding their request for underlying storage data.”  
28



1 As an initial matter, the documents produced by the City at CTY004627-  
2 4851, with a two page exception, are not responsive to this request. These  
3 documents include contracts between the city and Chrysalis, chain of custody  
4 forms, and receipts. Only one document, CTY004841, can be described as a  
5 summary of removed and stored property from 2019, and CTY004842 concerns  
6 the number of locations of the storage. The page range identified by the City does  
7 not contain 2020 data.

8 Second, although the parties met and conferred, the City did not agree to  
9 provide a written response that adheres to the mandates of Rule 34. In February  
10 2021, in response to an interrogatory that sought specific, discrete information  
11 about the City's storage facility, the City stated that it "does not intend to withhold  
12 any storage-related documents it identifies during its investigation." But it has not  
13 stated when the investigation will conclude or the scope of that investigation, and  
14 instead has engaged in piecemeal production.

15 This is insufficient. Plaintiffs are entitled to an unambiguous statement that  
16 the City is producing all responsive documents in its possession, custody and  
17 control. And the City cannot simply engage in a never ending rolling production  
18 and "produce any additional such documents if they are identified in its  
19 investigation." Myers Decl., ¶ 61, Exh. AN. Rule 34 requires the production of all  
20 documents in a "reasonable time" that must be identified at the time of the  
21 responses, which in this case was seven months ago. Moreover, this case was  
22 actually filed 19 months ago, and Defendant has had these requests in its  
23 possession since October 2019. A rolling production that drags on for more than six  
24 months, with no end in sight, is simply not allowed under Rule 34. *See* Fed. R.  
25 Civ. P. 34(b)(2)(B); *see also* *Maiorano*, 2017 WL 4792380, at \*2  
26  
27  
28

**c. Plaintiffs' Request is Not Overbroad**

Defendant asserts that the request is overbroad “in seeking all statistics, reports, analysis, or data compilations relate to the use of storage capacity dating back to April 2016, three years before Plaintiffs’ specific incidents occurred as alleged in the SAC.” As discussed in detail, two years and eight months prior to the Specific Incidents is reasonable, given that the date corresponds to when the City adopted the provisions of LAMC 56.11 that require the impounding of property. This is necessary to do an analysis of the extent to which the City’s expansion of storage space has kept pace with the City’s increased enforcement of LAMC 56.11. *See Thomas*, 715 F.Supp.2d at 1032 (granting a request for information going back nearly thirty years, where “in the context of th[e] action,” the requested information was “necessary to conduct a comparative analysis of the operation” at issue in the litigation and such analysis was “clearly relevant to Petitioner’s claims”). The request not only identifies a discrete topic and is time-limited, but also relates to a specific type of document related to the discrete topic. As such, the request is narrow, and there is no basis for the City’s refusal to produce responsive documents.

**d. Plaintiffs' Narrow Request is Proportional to the Needs of the Case**

To the extent Defendant is withholding any documents on the basis that the request is not proportional to the needs of this case, Defendant’s objection and subsequent meet and confer efforts provided no information “clarifying, explaining, and supporting its objection” that it is not proportional to the needs of the case, based on the factors outlined in Rule 26. *Duran v. Cisco Sys., Inc.*, 258 F.R.D. 375, 378 (C.D. Cal. 2009). Applying these factors and the appropriate scope of this litigation, the request is proportional to the needs of the case. As discussed in detail above, the issues at stake in this litigation are of constitutional significance; the amount of controversy is largely irrelevant given that Plaintiffs

1 primarily seek prospective relief to put an end to the City's unconstitutional  
2 practices; the City of Los Angeles has far more resources than the seven unhoused  
3 individuals whose belongings were seized and the volunteer organization whose  
4 resources go to replacing those belongings; and Defendant has access to  
5 information not publicly available, such as internal analysis and reports. *See*  
6 *supra*, Plaintiffs' Argument re: RFP No. 2. The other factors also weigh heavily in  
7 Plaintiffs' favor. *See* Fed. R. Civ. P. 26(b)(1).

8 **i. Importance of the discovery in resolving the issues**

9 The documents sought by Plaintiffs are related to one of the matters that is  
10 most central to this case: the extent to which the City stores property it seizes  
11 pursuant to LAMC 56.11. Reports and analysis related to those issues could  
12 provide critical evidence about, for example, the existence of customs, policies or  
13 practices or the City's awareness about and failure to address the issues raised in  
14 this case. Those issues are critical to *Monell* liability and Plaintiffs' claims for  
15 prospective relief, which as noted above, are at the center of this case.

16 **ii. Whether the burden or expense of the proposed**  
17 **discovery outweighs its likely benefit**

18 Defendant objects that the burden of producing documents responsive to  
19 Plaintiffs' request is too high, yet fails to provide any details whatsoever about  
20 why such a search for responsive documents would be burdensome. As such, the  
21 City has waived the argument that producing documents would be burdensome.  
22 Even if the request was not waived, any burden associated with this request would  
23 simply be the burden that comes from conducting any "reasonable inquiry" for  
24 responsive documents. *See* Plaintiffs' Argument re: RFP No. 16.

25 **e. There is No Merit to the City's Other Objections**

26 **i. Claims of privilege**

27 The City incorporates a general objection into the request "insofar as said  
28 Request seeks the disclosure of communications or information protected by the

1 attorney-client privilege, the attorney work product doctrine, the official  
2 information privilege or any other privilege.” *See* page 2 of Amended  
3 Responses. As discussed above, despite numerous requests Defendants have not  
4 produced a privilege log. “Boilerplate objections or blanket refusals inserted into a  
5 response to a Rule 34 request for production of documents are insufficient to assert  
6 a privilege.” *Burlington Northern & Santa Fe Ry. Co. v. U.S. Dist. Court for Dist.*  
7 *of Mont.*, 408 F.3d 1142, 1149 (9<sup>th</sup> Cir. 2005); *see also DeSilva*, 2020 WL  
8 5947827, at \*7. Defendant has therefore waived this objection. *Burlington*  
9 *Northern & Santa Fe Ry. Co.* at 1149.

10 **ii. Other boilerplate general objections**

11 In addition to the specific objections to relevance and proportionality, the  
12 City provides three pages of general boilerplate objections. The City simply  
13 incorporates these objections by reference into each of the requests for production,  
14 without providing any basis for the specific objection or even an assessment of  
15 whether the objection specifically applies to the request. The use of boilerplate  
16 objections in this way is inappropriate and an abuse of the discovery process. *See*  
17 *Polaris*, 2017 U.S. Dist. LEXIS 222261, at \*14-17; *see also Eisenhower Med. Ctr.*,  
18 2020 U.S. Dist. LEXIS 218716, at \*9. The City refused to clarify which of the  
19 objections (if any) applied to this request, let alone the facts necessary to  
20 support its application, even after months of requests by Plaintiffs for the City to  
21 do so as required by Rule 34. The City has therefore waived the objection. *See*  
22 *e.g., Bosley*, 2016 WL 1704159, at \*5 (Defendant waived blanket objections by  
23 failing to provide details of the objections as required by Rule 34(b)(2)(B)).

24 Plaintiffs are entitled to an order compelling the City to produce  
25 all documents responsive to RFP No. 45 within 21 days or, if the City asserts it has  
26 produced all documents responsive to the request, compelling Defendant to  
27 provide a complete, explicit response as to the search conducted to identify and  
28

1 produce responsive documents and to attest to the finality of their production, as  
2 required by Rule 34.

3 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**  
4 **NO. 45:**

5 RFP 45 asks for “All statistics, reports, analysis, or data compilations related  
6 to the use or capacity of STORAGE FACILITIES [2016-present].”

7 As with RFPs 43 and 44, which seek documents related to abstract storage  
8 capacity, Plaintiffs have not articulated the relevance of such documents, and even  
9 if they did, the request is not proportional to the needs of the case. Plaintiffs make  
10 the same arguments as they did for RFPs 43 and 44. The City incorporates by  
11 reference its responses to RFP 2, RFP 16, and RFP 43.

12  
13 **REQUEST FOR PRODUCTION NO. 47:**

14 All DOCUMENTS that track or document when, where, what, and/or how  
15 much property is taken or seized by the CITY pursuant to LAMC 56.11.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

17 Defendant incorporates the General Objections as though fully set forth here.  
18 Defendant objects that the Request seeks documents that are not relevant to  
19 Plaintiff El-Bey’s specific claims alleged in the SAC relating to incidents occurring  
20 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
21 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
22 documents that are not relevant to any named-plaintiffs’ claims as alleged in the  
23 SAC. The Court struck Plaintiff KFA’s claims seeking any declaration that the  
24 City unconstitutionally applied LAMC 56.11 or the City’s policies or practices to  
25 KFA’s members. Dkt. No. 65 at 7 (“[T]he Court interprets KFA’s claims in the  
26 SAC as seeking only to obtain a ruling that the City’s policies and practices are  
27 unconstitutional and not that each past application of those policies and practices to  
28

1 its members was unconstitutional.”). Defendant also objects that the proposed  
2 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
3 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
4 single incident ... to hold the City liable under *Monell*.”). Defendant objects that  
5 the Request is overbroad and burdensome in seeking all documents that show how  
6 much property was seized as part of encampment cleanups conducted since April 1  
7 2016. Defendant also objects to the Request to the extent the Request seeks  
8 information protected from disclosure by the attorney-client privilege and or  
9 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
10 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
11 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
12 15-17 (C.D. Cal. Sep. 9, 2013).

13 Defendant further objects that the Request is burdensome and not  
14 proportional to the needs of the case, insofar as the burden of searching for and  
15 producing all documents that show all details for how much property was seized  
16 for all encampment cleanups conducted since April 1, 2016 outweighs the benefit  
17 of such information for Plaintiff El Bey’s specific claims. Defendant objects that  
18 the Request seeks documents that are not reasonably accessible based on the undue  
19 burden and costs associated with searching for and producing all documents  
20 relating to storage records for 41,734 encampment cleanups conducted since April  
21 1, 2016. Defendant also objects that the proposed discovery is unreasonably  
22 cumulative and can be obtained through less burdensome and less expensive means  
23 to determine the use or capacity of storage facilities. Without waiving any, and  
24 based on these objections, Defendant will produce documents sufficient to show  
25 total amounts of property removed and discarded or stored as part of encampment  
26 cleanups dating back to January 1, 2019, but no additional documents will be  
27 produced in response to this Request.  
28



**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

Defendant incorporates the General Objections as though fully set forth here. Defendant objects that the Request seeks documents that are not relevant to Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42, "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or around January 10, 2019 at 6th Street and Alexandria and on or around June 4, 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and Zepeda allege claims for specific incidents occurring on or around March 21, 2019 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place; Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck Plaintiff KFA's claims seeking any declaration that the City unconstitutionally applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to obtain a ruling that the City's policies and practices are unconstitutional and not that each past application of those policies and practices to its members was unconstitutional."). Defendant also objects that the proposed discovery is not relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ... to hold the City liable under *Monell*"). Defendant objects that the Request is overbroad and burdensome in seeking all documents that show how much property

1 was seized as part of encampment cleanups conducted since April 1 2016.  
2 Defendant also objects to the Request to the extent the Request seeks information  
3 protected from disclosure by the attorney-client privilege and or attorney work  
4 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
5 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
6 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
7 Sep. 9, 2013).

8 Defendant further objects that the Request is burdensome and not  
9 proportional to the needs of the case, insofar as the burden of searching for and  
10 producing all documents that show all details for how much property was seized  
11 for all encampment cleanups conducted since April 1, 2016 outweighs the benefit  
12 of such information for Plaintiffs' specific claims. Defendant objects that the  
13 Request seeks documents that are not reasonably accessible based on the undue  
14 burden and costs associated with searching for and producing all documents  
15 relating to storage records for 41,734 encampment cleanups conducted since April  
16 1, 2016. Defendant also objects that the proposed discovery is unreasonably  
17 cumulative and can be obtained through less burdensome and less expensive means  
18 to determine the use or capacity of storage facilities. Without waiving any, and  
19 based on these objections, Defendant produced summaries of total amounts of  
20 property removed, stored, recovered or discarded for 2019 and 2020 at  
21 CTY004627-4851 and is willing to conduct additional meet-and-confer with  
22 Plaintiffs regarding their request for underlying storage data.

23 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**  
24 **NO. 47:**

25 Plaintiff seeks documents from the City that track the City's seizure of  
26 property pursuant to LAMC 56.11. The data related to the City's Encampment  
27  
28

Cleanups is highly relevant: it shows, among other items, when cleanups were conducted, and what property was taken.

Although the City initially refused to produce any documents responsive to this request or even to meet and confer, the City later agreed to meet and confer. In November, the City represented that it would export raw data from the three databases it identified as being used to collect Encampment Cleanup data, in satisfaction of the requests for data related to Encampment Cleanups. Myers Decl., ¶ 47, Exh. AA. Specifically, the City represented that for the three databases at issue:

- My311 Database: all data related to encampment cleanups from 1/1/18 to the present will be exported into an Excel spreadsheet and produced.
- WPIMS database: all data related to encampment cleanups from 1/1/18 to the present will be exported into an Excel spreadsheet and produced.
- AMS: To the extent there is data in AMS that is not stored in MyLA, that data will be produced.

*Id.* Despite the City's explicit representations that it would produce this data, and that these were the only databases used to collect encampment cleanup data, neither are in fact true.

**a. The City has withheld Critical Data from the AMS database**

Counsel for the City represented to Plaintiffs that it intended to produce all data contained in the AMS database related to encampment cleanups, and on December 19 and 29 produced two spreadsheets that purportedly contained all relevant data. In fact, the City withheld highly relevant fields of data, without ever indicating it was doing so. Specifically, the City did not produce at least 12 columns of data that contain the names of each of the individuals that authorized the specific encampment cleanups and the dates of those authorizations. See Riskin Decl., ¶ 7, Exh C; Myers Decl., ¶ 78, Exh. AS. This information is highly relevant to even the Specific Incidents, because the data withheld contains the

1 names of the government officials who approved the comprehensive cleanups that  
2 led to the violations of Plaintiffs' constitutional rights.<sup>28</sup> This is relevant to *Monell*  
3 liability and for other reasons.

4 The City's failure to produce the data here is made even more egregious  
5 because the withheld data is some of the same data that populates the "online  
6 authorization forms," which the City has never produced to Plaintiffs. *See*  
7 Plaintiffs' Argument re: RFP 2.

8 Plaintiffs were able to determine this data was withheld only because they  
9 received a different exported spreadsheet from the AMS database from a third  
10 party that obtained this data through a CPRA. *See Riskin Decl.*, ¶ 7. A comparison  
11 of the databases indicated that the data produced to Plaintiffs by the City does not  
12 contain this data.

13 **b. The City Failed to Identify Let Alone Produce Data From the**  
14 **Collection Information System, Which is a Fourth Database Used**  
15 **By LA Sanitation**

16 Although the City repeatedly represented that LA Sanitation uses only three  
17 databases to store Encampment Cleanup data, the City in fact uses a fourth  
18 database, the Collection Information System. The City withheld the existence of  
19 this database for months, while the parties were meeting and conferring about data  
20 responsive to these requests, and to date, has not produced any data from the  
21 database.

22 On December 7, 2020, Plaintiffs propounded an interrogatory requesting the  
23 City identify all databases or enterprise systems used by the City to compile data or  
24 to document any aspect of any Encampment Cleanup....” *Myers Decl.*, ¶ 61, Exh.  
25 AN. On January 20, 2021, the City responded to Plaintiff's interrogatories, again  
26 identifying only these three databases.

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27 <sup>28</sup> This is also the evidence that appears on the Online Encampment  
28 Authorizations, discussed *supra*, Plaintiffs Argument re: Request No. 2, which the  
City has simply failed to produce in this case. *See Riskin Decl.*, ¶ 5 & Exh. A.

1 On February 16, 2021, the City supplied Amended Interrogatory Responses,  
2 and in response to Interrogatory 13, the City identified for the first time an  
3 additional database, the Collection Information System. *Id.* Plaintiff is specifically  
4 seeking this database for the information it contains concerning the discarding of  
5 property. This database is used to produce the City's tonnage reports, which the  
6 City has identified as responsive to Plaintiffs' requests and produced reports  
7 relying on this data. Moreover, this data may be more complete than other data  
8 produced by the City, because it shows which cleanups were actually conducted  
9 (as opposed to WPIMS and AMS, which may not be clear about if a scheduled or  
10 authorized cleanup took place). Plaintiff intends to use the underlying data to  
11 contest and analyze the City's patterns of removal of property. The City has not  
12 made any offer to produce any spreadsheets from this database; Plaintiffs are  
13 entitled to access this data in order to contest the summaries put forth by the City  
14 and to determine patterns of property seizure and disposal.

15 **c. None of the City's Objections to Withholding Data has Merit**

16 **i. Data going back to 2016 is relevant**

17 Defendant unilaterally decided to produce data going back only to January 1,  
18 2018 instead of the requested start date of April 2016. That date, when the City  
19 amended LAMC 56.11, provides data that is relevant to analysis related to the  
20 City's expansion of enforcement, trends related to the seizure and destruction of  
21 property, whether and to what extent the destruction of property is ratified by  
22 official policy makers or whether the City adjusted its practices in response to  
23 complaints. All of that data is relevant to *Monell* liability.

24 **ii. The request is proportionate to the needs of the case**

25 The City has put forth no justification for withholding data going back to the  
26 requested April 2016. When Plaintiffs raised this issue with Defendant, counsel  
27 for the City responded by stating that "the data at issue is not as straightforward to  
28

1 export and prepare for production as Plaintiffs imagine.” She provided no further  
2 details about any alleged burden and instead, simply stated that “beginning the  
3 production on January 1, 2018 is more than reasonable.” Myers Decl., Exh. AF.

4 Because the City failed to provide any details about any burden associated  
5 with the production of this additional data, there is simply no argument that the  
6 request is not proportionate. Given the dramatic increase in the number of  
7 cleanups that occurred after January 1, 2018, the burden of producing an additional  
8 year and eight months prior to that date is almost certainly minimal. And the City  
9 has recently conceded in response to an interrogatory, that it routinely performs  
10 searches and exports data from these databases (in fact, the production of reports is  
11 so frequent that “it is not possible to identify all the variants of such reports.” *See*  
12 Myers Decl., ¶ 61, Exh. AN.

13 **d. The City has Waived its Other Objections**

14 The City includes a boilerplate objection on the basis of attorney-client  
15 privilege and work product doctrine, but fails to identify in any way whether or to  
16 what extent it is actually withholding any documents on the basis of privilege. In  
17 the seven months since the City produced responsive documents, the City has  
18 refused to produce a privilege log, despite repeated requests. It has therefore  
19 waived any privilege. *Burlington Northern & Santa Fe Ry. Co.* at 1149.

20 Likewise, the City provides no information here or anywhere to clarify why  
21 or even whether any of its other general objections apply. As such, it has waived  
22 them here. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

23 **e. Plaintiffs’ Request for Relief**

24 Plaintiffs are entitled to an order compelling the City to produce new  
25 spreadsheets with all data contained within any databases identified by Defendant  
26 as containing data related to encampment cleanups from April 2016 to the present  
27  
28



1 and a sworn statement, attesting that these are the only databases used by the City  
2 to collect data related to Encampment Cleanups.

3 **DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION**

4 **NO. 47:**

5 The request is not relevant and not proportional to the needs of the case. City  
6 incorporates by reference its argument as to RFP 33.

7  
8 **REQUEST FOR PRODUCTION NO. 48:**

9 All DOCUMENTS that track or document when, where, what, and/or how  
10 much property that is taken or seized pursuant to LAMC 56.11 is stored.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

12 Defendant incorporates the General Objections as though fully set forth here.  
13 Defendant objects that the Request seeks documents that are not relevant to  
14 Plaintiff El-Bey’s specific claims alleged in the SAC relating to incidents occurring  
15 on or around January 10, 2019 at 6th Street and Alexandria and on or around June  
16 4, 2019 at Oakwood and Western. Defendant further objects that the Request seeks  
17 documents that are not relevant to any named-plaintiffs’ claims as alleged in the  
18 SAC. The Court struck Plaintiff KFA’s claims seeking any declaration that the  
19 City unconstitutionally applied LAMC 56.11 or the City’s policies or practices to  
20 KFA’s members. Dkt. No. 65 at 7 (“[T]he Court interprets KFA’s claims in the  
21 SAC as seeking only to obtain a ruling that the City’s policies and practices are  
22 unconstitutional and not that each past application of those policies and practices to  
23 its members was unconstitutional.”). Defendant also objects that the proposed  
24 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
25 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs’ argument that “it need only raise a  
26 single incident ... to hold the City liable under *Monell*.”). Defendant objects that  
27 the Request is overbroad and burdensome in seeking all documents that show how  
28

1 much property was stored as part of encampment cleanups conducted since April  
2 1, 2016. Defendant also objects to the Request to the extent the Request seeks  
3 information protected from disclosure by the attorney-client privilege and or  
4 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
5 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
6 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
7 15-17 (C.D. Cal. Sep. 9, 2013).

8 Defendant further objects that the Request is burdensome and not  
9 proportional to the needs of the case, insofar as the burden of searching for and  
10 producing all documents that show all details for how much property was stored  
11 for all encampment cleanups conducted since April 1, 2016 outweighs the benefit  
12 of such information for Plaintiff El Bey's specific claims. Defendant objects that  
13 the Request seeks documents that are not reasonably accessible based on the undue  
14 burden and costs associated with searching for and producing all documents  
15 relating to storage records for 41,734 encampment cleanups conducted since April  
16 1, 2016. Defendant also objects that the proposed discovery is unreasonably  
17 cumulative and can be obtained through less burdensome and less expensive means  
18 to determine the use or capacity of storage facilities. Without waiving any, and  
19 based on these objections, Defendant will produce documents sufficient to show  
20 total amounts of property removed and discarded or stored as part of encampment  
21 cleanups dating back to January 1, 2019, but no additional documents will be  
22 produced in response to this Request.

23 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

24 Defendant incorporates the General Objections as though fully set forth here.  
25 Defendant objects that the Request seeks documents that are not relevant to  
26 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
27 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
28

1 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
2 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
3 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
4 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
5 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
6 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
7 at 6th Street and Ardmere and on or around June 11, 2019 at 5th Street and  
8 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
9 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
10 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
11 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
12 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
13 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
14 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
15 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
16 obtain a ruling that the City's policies and practices are unconstitutional and not  
17 that each past application of those policies and practices to its members was  
18 unconstitutional."). Defendant also objects that the proposed discovery is not  
19 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
20 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
21 to hold the City liable under *Monell*"). Defendant objects that the Request is  
22 overbroad and burdensome in seeking all documents that show how much property  
23 was stored as part of encampment cleanups conducted since April 1, 2016.  
24 Defendant also objects to the Request to the extent the Request seeks information  
25 protected from disclosure by the attorney-client privilege and or attorney work  
26 product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v. Convio, Inc.*,  
27 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers U.S.A., Inc.*, Case  
28

1 No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \* 15-17 (C.D. Cal.  
2 Sep. 9, 2013).

3 Defendant further objects that the Request is burdensome and not  
4 proportional to the needs of the case, insofar as the burden of searching for and  
5 producing all documents that show all details for how much property was stored  
6 for all encampment cleanups conducted since April 1, 2016 outweighs the benefit  
7 of such information for Plaintiff El Bey's specific claims. Defendant objects that  
8 the Request seeks documents that are not reasonably accessible based on the undue  
9 burden and costs associated with searching for and producing all documents  
10 relating to storage records for 41,734 encampment cleanups conducted since April  
11 1, 2016. Defendant also objects that the proposed discovery is unreasonably  
12 cumulative and can be obtained through less burdensome and less expensive means  
13 to determine the use or capacity of storage facilities. Without waiving any, and  
14 based on these objections, Defendant produced summaries of total amounts of  
15 property removed, stored, recovered or discarded for 2019 and 2020 at  
16 CTY004627- 4851 and is willing to conduct additional meet-and-confer with  
17 Plaintiffs regarding their request for underlying storage data.

18 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

19 **NO. 48:**

20 Plaintiffs seek documents related to the storage of property seized by the  
21 City of Los Angeles pursuant to LAMC 56.11. In response, the City indicated that  
22 it produced "summaries of the total amounts of property removed, stored,  
23 recovered or discarded for 2019 and 2020" and provided a Bates range of 224  
24 pages. In fact, no such document was produced by Defendant, within that  
25 document range or otherwise. The City produced a single page of storage data  
26 from 2019, again in PDF form, which it used in its opposition to Plaintiffs Motion  
27 for Preliminary Injunction. The rest of the PDF consists primarily of contracts  
28

1 between the Los Angeles Homeless Services Authority and Chrsyalis and  
2 individual storage sheets.

3       Thereafter, the City produced PDFs of 2018 and January through June 2020  
4 totals similar to the 2019 totals it previously produced. In addition, the City  
5 produced two spreadsheets that contain data from January through June 2019, July  
6 2018 and June 2019 But the City has refused to identify the source of these data for  
7 these charts, despite numerous requests from Plaintiffs to do so. Counsel for the  
8 City indicated on November 19, 2020 that “[t]he City intends to produce data  
9 tracked by Chrysalis. [It is] waiting to hear back from the Chrysalis coordinator,  
10 who is new to the position, on the details of the data and anticipated timeframe.”  
11 Myers Decl., ¶ 47, Exh. AA. As with all of the requests to which the City agreed to  
12 produce responsive documents, Ms. Ursea reiterated the City’s position that the  
13 data sought was “wholly unrelated to Plaintiffs or their belongings.” *Id.*

14       Since then, the City has not produced any requested data, although as noted  
15 regarding RFP 43, the City responded to an interrogatory seeking information  
16 about storage that “the City intends to produce any additional such documents if  
17 they are identified in its investigation or provided to the City by Chrysalis.” Myers  
18 Decl., ¶ 61, Exh. AN.

19       **a. The Documents sought are Relevant**

20       Data about what property that is impounded pursuant to LAMC 56.11 is  
21 actually stored, is unquestionably relevant to the question of whether and to what  
22 extent the City actually stores the property it impounds or whether it in fact simply  
23 destroys it all, as Plaintiffs allege. In fact, despite the fact that the City argued to  
24 this Court that the issue of storage is irrelevant to this case and then objected on  
25 this ground in its responses to the RFPs, the City itself put the storage of property  
26 at issue and even used the very data Plaintiffs seek here, to oppose Plaintiffs’  
27 motion for a Preliminary Injunction. *See* Myers Decl., ¶ 20, Exh. K. It is  
28

1 indefensible for the City to claim, as it does here, that evidence it has used itself to  
2 defend against Plaintiffs' claims, is now not relevant.

3 **b. The City Refuses to Produce the Data**

4 As with the rest of the City's written responses addressed here, the City's  
5 response to this request is not consistent with Rule 34. *See e.g.*, Plaintiffs'  
6 Argument re: RFP 2. Specifically here, the City has agreed to produce the data,  
7 but has inexplicably failed to do so, and this has been ongoing for over seven  
8 months. The City has refused every request to provide a "reasonable time" by  
9 which it will complete production, and instead, is engaged in an interminable  
10 "rolling production." This has been ongoing for almost two years.

11 In February 2021, in response to an interrogatory that sought specific,  
12 discrete information about the City's storage facility, the City appears to have  
13 agreed to produce documents responsive to this request, stating that "to the extent  
14 the City has in its possession chain of custody forms or other storage related  
15 information, it has produced such documents and intends to procure any additional  
16 such document if they are identified in its investigation or provided to the City by  
17 Chrysalis." The City goes on to state that it "does not intend to withhold any  
18 storage-related documents it identifies during its investigation." Myers Decl., ¶  
19 61, Exh. AN.

20 This is untenable. Rule 34 requires the City to have identified a start and  
21 end time for the production of documents. The City cannot fail to complete the  
22 production of documents because it has not yet completed an investigation into a  
23 case that was filed almost two years ago. Rule 34 requires the production of all  
24 documents in a "reasonable time" that must be identified at the time of the  
25 responses, which in this case was seven months ago. Moreover, this case was  
26 actually filed 19 months ago, and Defendant has had these requests in its  
27 possession since October 2019. A rolling production that drags on for more than six  
28



1 months, with no end in sight, is simply not allowed under Rule 34. *See* Fed. R.  
2 Civ. P. 34(b)(2)(B); *see also* *Maiorano*, 2017 WL 4792380, at \*2; *Fulfillium*, 2018  
3 WL 6118433, at \*3.

4 **c. The Requests are Not Overbroad or Burdensome**

5 Defendant asserts that the request is overbroad “in seeking all documents  
6 that show how much property was stored as part of encampment cleanups  
7 conducted since April 1, 2016.” As discussed in detail, two years and eight  
8 months prior to the Specific Incidents is reasonable, given that the date  
9 corresponds to when the City adopted the provisions of LAMC 56.11 that require  
10 the impounding of property. This is necessary to do an analysis of the extent to  
11 which the City’s expansion of storage space has kept pace with the City’s  
12 increased enforcement of LAMC 56.11. *See Thomas*, 715 F.Supp.2d at 1032  
13 (granting a request for information going back nearly thirty years, where “in the  
14 context of th[e] action,” the requested information was “necessary to conduct a  
15 comparative analysis of the operation” at issue in the litigation and such analysis  
16 was “clearly relevant to Petitioner’s claims”). The request identifies a discrete  
17 topic and is time-limited, and as such, it is not overbroad. *See Fulfillium*, 2018 WL  
18 6118433, at \*5.

19 **d. The Request is Proportionate to the Needs of the Case**

20 Given the City’s interrogatory response, it appears the City is no longer  
21 challenging the proportionality of this request; to the extent that it does, this  
22 request is proportional to the needs of the case.

23 **i. Importance of the discovery in resolving the issues**

24 The question of whether and to what extent the City stores property it seizes  
25 pursuant to the impound statute is a central issue in this case. The City alleges it  
26 stores property pursuant to LAMC 56.11; Plaintiffs allege they destroy it. The data  
27 about what and how much is stored, is directly relevant to this issue. Moreover,  
28

1 the information about what is stored is important to the City's assertion that it  
2 cannot store property, and therefore, disposes of it. The documents may contain  
3 important impeachment evidence, related to the City's contention that, for  
4 example, it seizes property only when there is storage available, or that the City  
5 stores property it impounds. *See Estate of Ernesto Flores*, 2017 WL 3297507, at  
6 \*6; *Paulsen*, 168 F.R.D. at 289.

7 Although Defendant continues to fight Plaintiffs on this issue, as noted  
8 above, the question of storage was so important to the City's defense against the  
9 Motion to Dismiss, that it used this data in response to Plaintiffs' Motion for a  
10 Preliminary Injunction, seeking to enjoin the enforcement of the ordinance on its  
11 face. Certainly the data is important then, to Plaintiffs' as-applied challenge,  
12 which specifically challenges the customs, practices, and policies related to the  
13 handling of people's belongings.

14 **ii. Whether the burden or expense of the proposed**  
15 **discovery outweighs its likely benefit**

16 Defendant puts forth no explanation why it is burdensome to produce this  
17 data. Absent any explanation for why it is burdensome to export the underlying  
18 data that supports the summary data used by the City already in its defense in this  
19 case, there is no basis for this objection.

20 **e. The Request is not Cumulative**

21 Defendant objects that "the proposed discovery is unreasonably cumulative  
22 and can be obtained through less burdensome and less expensive means to  
23 determine the capacity of the City's storage facilities." However, in response to  
24 the meet and confer efforts, the City failed to clarify what the request was  
25 "cumulative" of or what "less burdensome" and "less expensive means" Plaintiffs  
26 could use to obtain the capacity of the storage facility. In fact, Plaintiffs did  
27 propound an interrogatory asking for that specific information and the City refused  
28 to respond to the question. Instead, it pointed Plaintiffs back to its RFP responses.

1 And the request seeks documents that contain more information than simply the  
2 capacity of the storage facilities; it also seeks documents that discuss the City's  
3 capacity and the need for any additional capacity. The City has provided no  
4 explanation for its objection that the request is cumulative or how Plaintiffs can  
5 otherwise obtain this information, which itself is not a basis for refusing to respond  
6 to this request.

7 **f. The City has Waived its Other Objections**

8 The City includes a boilerplate objection on the basis of attorney-client  
9 privilege and work product doctrines, but fails to identify in any way whether or to  
10 what extent it is actually withholding any documents on the basis of privilege. In  
11 the seven months since the City produced responsive documents, the City has  
12 refused to produce a privilege log, despite repeated requests. It has therefore  
13 waived any privilege. *Burlington Northern & Santa Fe Ry. Co.* at 1149.

14 Likewise, the City provides no information here or anywhere to clarify why  
15 or even whether any of its other general objections apply. As such, it has waived  
16 them here. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

17 **g. Plaintiffs' Request for Relief**

18 Plaintiffs are entitled to an order compelling the City to produce  
19 all documents responsive to RFP No. 49 within 21 days or, if the City asserts it has  
20 produced all documents responsive to the request, compelling Defendant to  
21 provide a complete, explicit response as to the search conducted to identify and  
22 produce responsive documents and to attest to the finality of their production, as  
23 required by Rule 34.

24 **DEFENDANT'S ARGUMENT RE: REQUEST FOR PRODUCTION**  
25 **NO. 48:**

26 Plaintiffs have not articulated the relevance of such documents, and even if  
27 they did, the request is not proportional to the needs of the case. The City  
28

1 incorporates by reference its responses to RFP 2, RFP 16, RFP 33 and RFP 43. As  
2 to Plaintiffs' argument that the City has "waived" privilege, the City incorporates by  
3 reference its argument on that issue with respect to RFP 1.

4  
5 **REQUEST FOR PRODUCTION NO. 49:**

6 All DOCUMENTS that track or document when, where, what, how much,  
7 and by whom property is stored in STORAGE FACILITIES has been retrieved or  
8 destroyed.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

10 Defendant incorporates the General Objections as though fully set forth here.  
11 Defendant objects that the Request seeks documents that are not relevant to  
12 Plaintiff El-Bey's specific claims alleged in the SAC relating to incidents occurring  
13 on or around January 10, 2019 at 6th Street and Alexandria and on or around  
14 June 4, 2019 at Oakwood and Western. Defendant further objects that the Request  
15 seeks documents that are not relevant to any named-plaintiffs' claims as alleged in  
16 the SAC. The Court struck Plaintiff KFA's claims seeking any declaration that the  
17 City unconstitutionally applied LAMC 56.11 or the City's policies or practices to  
18 KFA's members. Dkt. No. 65 at 7 ("[T]he Court interprets KFA's claims in the  
19 SAC as seeking only to obtain a ruling that the City's policies and practices are  
20 unconstitutional and not that each past application of those policies and practices to  
21 its members was unconstitutional."). Defendant also objects that the proposed  
22 discovery is not relevant to establishing *Monell* liability for the claims alleged in  
23 the SAC. Dkt. No. 65 at 7 (accepting plaintiffs' argument that "it need only raise a  
24 single incident ... to hold the City liable under *Monell*."). Defendant objects that  
25 the Request is overbroad and burdensome in seeking all documents that show how  
26 much stored property was recovered as part of encampment cleanups conducted  
27 since April 1, 2016. Defendant also objects to the Request to the extent the Request  
28

1 seeks information protected from disclosure by the attorney-client privilege and or  
2 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
3 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
4 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
5 15-17 (C.D. Cal. Sep. 9, 2013).

6 Defendant further objects that the Request is burdensome and not  
7 proportional to the needs of the case, insofar as the burden of searching for and  
8 producing all documents that show all details for how much property was stored  
9 for all encampment cleanups conducted since April 1, 2016 outweighs the benefit  
10 of such information for Plaintiff El Bey's specific claims. Defendant objects that  
11 the Request seeks documents that are not reasonably accessible based on the undue  
12 burden and costs associated with searching for and producing all documents  
13 relating to storage records for 41,734 encampment cleanups conducted since April  
14 1, 2016. Defendant also objects that the proposed discovery is unreasonably  
15 cumulative and can be obtained through less burdensome and less expensive means  
16 to determine the amount of recovered property. Without waiving any, and based on  
17 these objections, Defendant will produce documents sufficient to show total  
18 amounts of property that was removed, stored and recovered or discarded as part of  
19 encampment cleanups dating back to January 1, 2019, but no additional documents  
20 will be produced in response to this Request.

21 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

22 Defendant incorporates the General Objections as though fully set forth here.  
23 Defendant objects that the Request seeks documents that are not relevant to  
24 Plaintiffs' specific claims alleged in the Second Amended Complaint (Dkt. No. 42,  
25 "SAC"). Plaintiff El-Bey alleges claims for specific incidents occurring on or  
26 around January 10, 2019 at 6th Street and Alexandria and on or around June 4,  
27 2019 at Oakwood and Western; Plaintiff Garcia alleges claims for specific  
28

1 incidents occurring on or around January 29, 2019 at Aetna Street and Tyrone  
2 Avenue, on or around April 29, 2019 at Aetna Street and Van Nuys Boulevard, and  
3 on or around August 14, 2019 at Calvert and Bessemer; Plaintiffs Zamora and  
4 Zepeda allege claims for specific incidents occurring on or around March 21, 2019  
5 at 6th Street and Ardmore and on or around June 11, 2019 at 5th Street and  
6 Harvard; Plaintiff Haugabrook alleges claims for incidents occurring sometime in  
7 March 2019 and a month later by Figueroa Street and 53rd Street and 52nd Place;  
8 Plaintiff Diocson alleges claims for a specific incident on or around April 24, 2019  
9 at Lomita and McCoy; and Plaintiff Ashley alleges claims for a specific incident  
10 occurring on or around May 21, 2019 at Lomita and McCoy. The Court struck  
11 Plaintiff KFA's claims seeking any declaration that the City unconstitutionally  
12 applied LAMC 56.11 or the City's policies or practices to KFA's members. Dkt.  
13 No. 65 at 7 ("[T]he Court interprets KFA's claims in the SAC as seeking only to  
14 obtain a ruling that the City's policies and practices are unconstitutional and not  
15 that each past application of those policies and practices to its members was  
16 unconstitutional."). Defendant also objects that the proposed discovery is not  
17 relevant to establishing *Monell* liability for the claims alleged in the SAC. Dkt. No.  
18 65 at 7 (accepting plaintiffs' argument that "it need only raise a single incident ...  
19 to hold the City liable under *Monell*"). Defendant objects that the Request is  
20 overbroad and burdensome in seeking all documents that show how much stored  
21 property was recovered as part of encampment cleanups conducted since April 1,  
22 2016. Defendant also objects to the Request to the extent the Request seeks  
23 information protected from disclosure by the attorney-client privilege and or  
24 attorney work product doctrines. F.R.Civ.P. Rule 26(b)(3)(A)-(B); *Kintera, Inc. v.*  
25 *Convio, Inc.*, 219 F.R.D. 503, \*507 (S.D. Cal. 2003); *Reinsdorf v. Sketchers*  
26 *U.S.A., Inc.*, Case No. CV 10-7181 DDP (SSx), 2013 U.S. Dist. Lexis 200627, \*  
27 15-17 (C.D. Cal. Sep. 9, 2013).



1 Defendant further objects that the Request is burdensome and not  
2 proportional to the needs of the case, insofar as the burden of searching for and  
3 producing all documents that show all details for how much property was stored  
4 for all encampment cleanups conducted since April 1, 2016 outweighs the benefit  
5 of such information for Plaintiffs' specific claims. Defendant objects that the  
6 Request seeks documents that are not reasonably accessible based on the undue  
7 burden and costs associated with searching for and producing all documents  
8 relating to storage records for 41,734 encampment cleanups conducted since  
9 April 1, 2016. Defendant also objects that the proposed discovery is unreasonably  
10 cumulative and can be obtained through less burdensome and less expensive means  
11 to determine the amount of recovered property. Without waiving any, and based on  
12 these objections, Defendant produced summaries of total amounts of property  
13 removed, stored, recovered or discarded for 2019 and 2020 at CTY004627- 4851  
14 and is willing to conduct additional meet-and-confer with Plaintiffs regarding their  
15 request for underlying storage data.

16 **PLAINTIFFS' ARGUMENT RE: REQUEST FOR PRODUCTION**

17 **NO. 49:**

18 Plaintiffs seek documents related to the issue of whether property that is  
19 seized and taken to a Storage Facility is retrieved or ultimately destroyed by the  
20 Storage Facility. The City puts forth identical objections to the request for storage  
21 data in RFP 48. Because the City's response to RFP 49 is identical to RFP 48, and  
22 many of the arguments are the same, except as noted below, Plaintiffs incorporate  
23 by reference the arguments regarding RFP 48 here.

24 **a. The Documents sought are Relevant**

25 Defendant put the issue of the retrieval of property directly at issue in its  
26 opposition to Plaintiffs' Motion for Preliminary Injunction, in which the City  
27  
28

1 argued that the fact that people do not pick up their property indicates that the  
2 property is not important. *See* Myers Decl., ¶ 20, Exh. K at ¶ 52.

3 The City cannot now contend that this issue is not relevant, which is of  
4 course, liberally construed. *Pitkin*, 2017 WL 6496565, at \*2. The City has raised  
5 it as a defense, and Plaintiffs are entitled to discovery on the issue. Fed. R. Civ.  
6 Pro. 26. The specific documents Plaintiffs seek in this request are directly related  
7 to Defendant's allegations.

8 **b. The City Refuses to Produce the Data**

9 The City has agreed to produce at least some documents responsive to this  
10 request, but has failed to do so. This is untenable. As discussed in detail in  
11 Plaintiffs' Argument re: RFP No. 48, Rule 34 requires the City to have identified a  
12 start and end time for the production of documents. The City cannot fail to  
13 complete the production of documents because it has not yet completed an  
14 investigation. Rule 34 requires the production of all documents in a "reasonable  
15 time" that must be identified at the time of the responses, which in this case was  
16 seven months ago. Moreover, this case was actually filed 19 months ago, and  
17 Defendant has had these requests in its possession since October 2019. A rolling  
18 production that drags on for more than six months, with no end in sight, is simply  
19 not allowed under Rule 34. *See* Fed. Rule Civ. Pro. 34(b)(2)(B); *see also*  
20 *Maiorano*, 2017 WL 4792380, at \*2; *Fulfillium*, 2018 WL 6118433, at \*3.

21 **c. The Requests are not Overbroad or Burdensome**

22 Defendant asserts that the request is overbroad "in seeking all documents  
23 that show how much stored property was recovered as part of encampment  
24 cleanups conducted since April 1, 2016." As discussed in detail, two years and  
25 eight months prior to the Specific Incidents is reasonable, given that the date  
26 corresponds to when the City adopted the provisions of LAMC 56.11 that require  
27 the impounding of property. *See Thomas*, 715 F. Supp. 2d at 1032 (granting a  
28

1 request for information going back nearly thirty years, where “in the context of  
2 th[e] action,” the requested information was “necessary to conduct a comparative  
3 analysis of the operation” at issue in the litigation and such analysis was “clearly  
4 relevant to Petitioner’s claims”). The request identifies a discrete topic and is  
5 time-limited, and as such, it is not overbroad. *See Fulfillium*, 2018 WL 6118433,  
6 at \*5.

7 **i. The Request is Proportionate to the Needs of the Case**

8 Given the City’s interrogatory response, it appears the City is no longer  
9 challenging the proportionality of this request; to the extent that it does, this  
10 request is proportional to the needs of the case.

11 **ii. Importance of the discovery in resolving the issues**

12 The question of whether and to what extent property that is seized is  
13 retrieved or ultimately destroyed is important to both the reasonableness of the  
14 seizure and the due process afforded to individuals whose property is taken. The  
15 City is aware of the centrality of this issue—it raised the issue in opposition to a  
16 challenge to the ordinance on its face, and it used summary data to make this point.  
17 Certainly this issue is important then, to Plaintiffs’ as-applied challenge, which  
18 specifically challenges the customs, practices, and policies related to the handling  
19 of people’s belongings. In addition, the documents Plaintiffs seek may contain  
20 important impeachment evidence, related to the City’s contention that, for  
21 example, it seizes property only when there is storage available, or that the City  
22 stores property it impounds. *See Estate of Ernesto Flores*, 2017 WL 3297507, at  
23 \*6; *Paulsen*, 168 F.R.D. at 289.

24 **iii. Whether the burden or expense of the proposed**  
25 **discovery outweighs its likely benefit**

26 Defendant puts forth no explanation why it is burdensome to produce this  
27 data. The City has already used the summary data in this case; it should not be  
28 burdensome to hand over the underlying data to Plaintiffs.

**d. The Request is not Cumulative**

As discussed in RFP 48, the City failed to clarify what the request was “cumulative” of or what “less burdensome” and “less expensive means” Plaintiffs could use to obtain the capacity of the storage facility.

**e. The City has Waived its Other Objections**

The City includes a boilerplate objection on the basis of attorney client privilege and work product doctrines, but fails to identify in any way whether or to what extent it is actually withholding any documents on the basis of privilege. In the seven months since the City produced responsive documents, the City has refused to produce a privilege log, despite repeated requests. It has therefore waived any privilege. *Burlington Northern & Santa Fe Ry. Co.* at 1149.

Likewise, the City provides no information here or anywhere to clarify why or even whether any of its other general objections apply. As such, it has waived them here. *See e.g., Bosley*, 2016 WL 1704159, at \*5.

**f. Plaintiffs’ Request for Relief**

Plaintiffs are entitled to an order compelling the City to produce all documents responsive to RFP No. 49 within 21 days or, if the City asserts it has produced all documents responsive to the request, compelling Defendant to provide a complete, explicit response as to the search conducted to identify and produce responsive documents and to attest to the finality of their production, as required by Rule 34.

**DEFENDANT’S ARGUMENT RE: REQUEST FOR PRODUCTION  
NO. 49:**

Plaintiffs have not articulated the relevance of such documents, and even if they did, the request is not proportional to the needs of the case. The City incorporates by reference its responses to RFP 2, RFP 16, RFP 33 and RFP 43. As to Plaintiffs’ argument that the City has “waived” privilege, the City incorporates by reference its argument on that issue with respect to RFP 1.

1 **IV. PLAINTIFFS' REQUEST FOR ATTORNEYS' FEES**

2 **a. Plaintiffs' Position on Attorneys' Fees**

3 Plaintiffs also seek an award of expenses, including reasonable attorneys'  
4 fees, against the City of Los Angeles, pursuant to Federal Rule of Civil Procedure,  
5 37(a)(5)(A), which provides that "the court must, after giving an opportunity to be  
6 heard, require the party or deponent whose conduct necessitated the motion ... to  
7 pay the movant's reasonable expenses incurred in making the motion, including  
8 attorney's fees." Fed. R. Civ. Pro. 37(a)(5)(A).

9 Far from resulting from a reasonable dispute in which Defendant was  
10 substantially justified in taking the positions it did in its responses, *see Reygo Pac.*  
11 *Corp. v. Johnston Pump Co.*, 680 F.2d 647, 649 (9th Cir. 1982), this motion results  
12 from the City's untenable and completely unsupported legal positions and its  
13 refusal to participate in the discovery process in good faith. Despite numerous  
14 court rulings debunking the City's limited view of the scope of this case and the  
15 Federal Rules of Civil Procedure that require the participation of the parties in  
16 good faith, the City has maintained its indefensible legal positions through the  
17 course of this litigation, refusing to acknowledge that any discovery is relevant,  
18 and as a result, has taken unsupported positions related to burden and  
19 proportionality.

20 Defendant's view of this litigation, which is wholly unsupported in the  
21 pleadings or the significant court rulings in this case, has infected the way in which  
22 it has participated in discovery. The City has repeatedly and consistently withheld  
23 documents responsive to RFPs, even after agreeing to produce those documents.  
24 More than 16 months after stating under penalty of perjury to this Court that the  
25 City had produced documents and went so far as to force a Plaintiff to dismiss his  
26 claims based on that attestation, the City still has not produced these critical  
27 documents. And Plaintiffs have had to engage in considerable work to obtain  
28

1 documents from third party sources, simply to verify that the City's production is  
2 incomplete.

3 Even after the City abruptly changed course and appeared willing to  
4 participate in the discovery process, the City has engaged in interminable delay.  
5 Over 100 days after Plaintiffs provided the City with search terms and custodians  
6 to identify responsive emails, the City has produced only a small number of emails  
7 from one agency, and none of the responsive emails from the main agencies  
8 implicated in this litigation. The City refuses to provide any information about  
9 when that production is forthcoming, or even to commit to producing emails. And  
10 the City has also simply stopped communicating about the promised discovery it  
11 promised Plaintiffs was forthcoming in December.

12 Finally, the City has provided no written explanations for any of these  
13 deficiencies. Its initial written responses and then amended responses utterly fail  
14 to provide the information required by Rule 34. The City has not provided a  
15 privilege log in more than seven months, even as it continues to assert that it is  
16 withholding documents on the basis of privilege.

17 As a result of the City's deleterious tactics, Plaintiffs have had to expend an  
18 incredible amount of resources, first attempting to meet and confer for months,  
19 then to chase down documents from other sources to uncover the extent to which  
20 the City is withholding responsive, highly relevant documents. The City has  
21 shifted the burden onto Plaintiffs to identify missing documents, producing only  
22 those documents that Plaintiffs identify, and never attesting to the sufficiency of  
23 the search or the end of its rolling production.

24 This is not what is required under Rule 26 and Rule 34, and as such, this is  
25 exactly the circumstance in which Plaintiffs are entitled to attorneys fees under  
26 Rule 37. Plaintiffs request the Court allow Plaintiffs to submit a separate motion  
27 for reasonable attorneys fees, after the Court issues its ruling on this motion.  
28



**b. Defendant's Position on Attorneys' Fees**

Plaintiffs are not entitled to any attorneys fees. The City's objections on relevance and proportionality are substantially justified. In contrast, Plaintiffs' position that they need this broad discovery to prove *Monell* liability and entitlement to declaratory relief is specious, given that the policy at issue is written, the City has admitted to adopting and enforcing it, and admits that it continues to enforce it *and* given that Plaintiffs have refused the City's repeated offers to stipulate to *Monell* liability. Even so, the City reasonably compromised on every single one of Plaintiffs' requests. The record shows that the City did not unreasonably withhold or fail to respond to any of the overbroad discovery propounded by Plaintiffs.

In addition, Plaintiffs did not properly meet and conferred before filing this motion. "In order to satisfy their meet and confer obligations, parties must treat the informal negotiation process as a substitute for, and not simply a formalistic prerequisite to, judicial resolution of discovery disputes. *Moore v. Superway Logistics, Inc.*, No. 1:17-cv-01480-DAD-BAM, 2019 U.S. Dist. LEXIS 90111, at \*10 (E.D. Cal. May 28, 2019) (internal quotations and citations omitted). Plaintiffs identify specific documents in this stipulation they claim are "missing" from the City's productions but they never brought those documents to the City's attention. Plaintiffs also moved to compel the production of emails that the City had agreed to produce and was in the process of producing. In fact, just days after Plaintiffs served their stipulation, the City produced over 19,000 emails, many of which contain the very information Plaintiffs now seek to compel. "Counsel should strive to be cooperative, practical and sensible, and should seek judicial intervention only in extraordinary situations that implicate truly significant interests." *Id.* (internal quotations and citations omitted). Plaintiffs have failed to satisfy those obligations

here. Plaintiffs' motion should be denied, and if any party is entitled to fees, it is the City pursuant to Fed. R. Civ. Pro. 37(a)(5)(B).

Dated: April 7, 2021

Legal Aid Foundation of Los Angeles,  
Schonbrun Seplow Harris & Hoffman, LLP  
Kirkland & Ellis, LLP

By: /s/ Shayla Myers  
Shayla Myers  
Attorney for Plaintiff, Miriam Zamora

Dated: April 7, 2021

MICHAEL N. FEUER, City Attorney  
KATHLEEN KENEALY, Chief Deputy City  
Attorney  
SCOTT MARCUS, Chief, Civil Litigation Branch  
FELIX LEBRON, Deputy City Attorney  
A. PATRICIA URSEA, Deputy City Attorney

By: /s/ Felix Lebron  
FELIX LEBRON  
Deputy City Attorney  
Attorneys for Defendant  
CITY OF LOS ANGELES

**FILER'S ATTESTATION**

Pursuant to the Central District of California Local Rule 5-4.3.4(a)(2)(i), I attest that the other signatory listed, and on whose behalf this filing is submitted, concurs in the filing content and has authorized this filing.

/s/ Shayla Myers

# APPENDIX A

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JANET GARCIA , et al.

Plaintiffs,

v.

CITY OF LOS ANGELES , et al.

Defendants.

CASE NO:

2:19-cv-06182-DSF-PLA

**ORDER RE JURY TRIAL**

**I. DEADLINES**

A. Motion to Amend Pleadings or Add  
Parties Cut-off:  
2/1/2021

B. Discovery Cut-Off:  
1/25/2021

C. Expert Witness Exchange Deadline:  
Initial: 2/22/2021;  
Rebuttal: 3/22/2021;  
Cut-off: 4/19/2021

D. Motion Hearing Cut-off:  
6/7/2021

E. ADR Cut-off:  
6/21/2021

F. Trial Documents (Set One):  
7/26/2021

G. Trial Documents (Set Two):  
8/2/2021

H. Final Pre-Trial Conference:  
8/16/2021 at 03:00 PM

I. Trial Date:  
9/14/2021 at 08:30 AM

**II. TRIAL PREPARATION**

**III. CONDUCT OF ATTORNEYS  
AND PARTIES**

## **DEADLINES**

### **A. PARTIES/PLEADINGS**

The Court has established a cut-off date for adding parties or amending pleadings. All motions to add parties or to amend the pleadings must be noticed to be heard on or before the cut-off date. All unserved parties will be dismissed at the time of the pretrial conference pursuant to Local Rule 16-8.1.

### **B. DISCOVERY AND DISCOVERY CUT-OFF**

1. Discovery Cut-off: The Court has established a cut-off date for discovery and expert discovery if applicable. This is not the date by which discovery request must be served; it is the date by which all discovery, including all hearing on any related motions, is to be completed. The parties should review carefully any motion requirements of the assigned magistrate judge to ensure that motions are made timely.

2. Discovery Disputes: Counsel are expected to comply with all Local Rules and the Federal Rules of Civil Procedure concerning discovery. Whenever possible, the Court expects counsel to resolve discovery problems among themselves in a courteous, reasonable, and professional manner. The Court expects that counsel will adhere strictly to the Civility and Professionalism Guidelines, which can be found on the Court's website under "Attorney Information>Attorney Admissions."

3. Discovery Motions: Any motion challenging the adequacy of discovery responses must be filed, served, and calendared sufficiently in advance of the discovery cut-off date to permit the responses to be obtained before that date if the motion is granted

4. Depositions: All depositions must commence sufficiently in advance of the discovery cut-off date to permit their completion and to permit the deposing party enough time to bring any discovery motions concerning the deposition



before the cut-off date.

5. Written Discovery: All interrogatories, requests for production of documents, and requests for admissions must be served sufficiently in advance of the discovery cut-off date to permit the discovering party enough time to challenge (via motion practice) responses deemed to be deficient.

6. Expert Discovery: All disclosures must be made in writing. The parties should begin expert discovery shortly after the initial designation of experts. The pretrial conference and trial dates will not be continued merely because expert discovery is not completed. Failure to comply with these or any other orders concerning expert discovery may result in the expert being excluded as a witness.

### C. MOTIONS

The Court has established a cut-off date for the hearing of motions. All motions must be noticed so that the hearing takes place on or mandatory paper Chambers copies of all documents. Chambers copies should not be put in envelopes. Counsel should consult the Court's Standing Order, previously provided, to determine the Court's requirements concerning motions. A copy of the Standing Order is also available on the Court's website at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov)>Judge's Procedures and Schedules>Hon. Dale S. Fischer.

### D. PRETRIAL CONFERENCE

1. A pretrial conference date has been set pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rule 16-8. Each party appearing in this action must be represented at the pretrial conference by the attorney who is to have charge of the conduct of the trial on behalf of such party, unless excused for good cause. Counsel should not claim to be co-lead trial counsel for the purpose of avoiding this requirement. If counsel purport to be co-lead trial counsel, **both** must attend the pretrial conference. Counsel should be prepared to discuss streamlining the trial, including presentation of testimony by deposition excerpts or summaries, time limits, stipulations to admissions of exhibits and undisputed

facts.

2           2.       STRICT COMPLIANCE WITH LOCAL RULE 16 IS REQUIRED.  
3       THIS ORDER SETS FORTH SOME DIFFERENT AND SOME ADDITIONAL  
4       REQUIREMENTS. THIS COURT DOES NOT EXEMPT *PRO PER* PARTIES  
5       FROM THE REQUIREMENTS OF RULE 16. Carefully prepared memoranda of  
6       contentions of fact and law, witness lists, a joint exhibit lists, and a proposed  
7       pretrial conference order must be submitted in accordance with the Rules and this  
8       Order, and the format of the proposed pretrial conference order must conform to  
9       the format set forth in Appendix A to the Local Rules. Failure of documents to  
10      comply with these requirements may result in the pretrial conference being taken  
11      off-calendar or continued, or in other sanctions.

12           3.      The memoranda of contentions of fact and law, witness lists, and the  
13      joint exhibit list must be filed not later than the dates set by the Court.

14           4.      In addition to the requirements of Local Rule 16, the witness lists must  
15      include a brief (one or two paragraph) description of the testimony, and a time  
16      estimate for both direct and cross-examination (separately stated). If two or more  
17      witnesses will testify on the same topics, counsel must explain why more than one  
18      witness is necessary. A separate version of the witness list containing only the  
19      names of the witnesses and a separate column to insert the dates on which the  
20      witness testified, and the joint exhibit list, must be submitted to the Chambers  
21      email box in Word format. Mandatory paper chambers copies must also be  
22      submitted.

23           5.      Other documents to be filed in preparation for, and issues to be  
24      addressed at, the pretrial conference are discussed below.

25           E.      ALTERNATIVE DISPUTE RESOLUTION (ADR)

26                   PROCEDURES/NOTICE OF SETTLEMENT

27           1.      Counsel must complete an ADR proceeding no later than the date set by  
28      the Court.

2. No case will proceed to trial unless all parties, including an officer of all corporate parties (with full authority to settle the case), have appeared personally at an ADR proceeding.

3. If settlement is reached, it must be reported immediately to the courtroom deputy clerk (CRD) as required by Local Rule 16-15.7 regardless of the day or time settlement is reached. In addition, counsel must immediately send a notification of the settlement to the Chambers email box

4. In all cases set for jury trial, the parties must notify the Court no later than the Wednesday preceding the Tuesday trial date of any settlement so that the necessary arrangements can be made to schedule a different case for trial or notify the members of the public who would otherwise be reporting for jury duty that their services are not needed on that date.

5. Failure to comply with these notification requirements will cause counsel/parties to be charged for the costs related to proceeding jurors and may result in the imposition of sanctions on counsel for one or more parties, their clients, or both.

## II

### ADDITIONAL TRIAL PREPARATION

#### A. MOTIONS *IN LIMINE*

All motions *in limine* must be filed by the date established by the Court. Each side is limited to five motions *in limine* unless the Court orders otherwise for good cause shown. Counsel are to meet and confer to determine whether opposing counsel intends to introduce the disputed evidence, etc. and to attempt to reach an agreement that would obviate the motion. Opposition must be filed by the date established by the Court. The Court generally will rule on motions *in limine* at the pretrial conference. Motions *in limine* should address specific issues (i.e., *not* “to exclude all hearsay,” etc.). Motions *in limine* should not be disguised motions for summary adjudication of issues.

B. JURY INSTRUCTIONS, SPECIAL VERDICT FORMS, VOIR

DIRE, JURY SELECTION

1. At least fourteen days before the meeting of counsel required by Local Rule 16-2 (which must occur at least 40 days before the date set for the pretrial conference), plaintiff(s) counsel must serve on defense counsel proposed jury instructions and proposed verdict/special verdict forms. Within 7 days, defense counsel must serve objections, if any, to those instructions and verdict forms, as well as any proposed alternative or additional instructions and verdict forms. Before or at the Rule 16-2 meeting, counsel must attempt to come to agreement on the proposed jury instructions and verdict forms.

2. When the Manual of Model Jury Instructions for the Ninth Circuit provide an applicable jury instructions, the parties should submit the most recent versions, modified and supplemented to fit the circumstances of this case. Where language appears in brackets, the appropriate language should be selected. All blanks should be completed. Where California law applies, counsel should use the current edition of California Jury Instructions - - Civil (BAJI or CACI). If neither is applicable, counsel should consult the instructions manuals from other circuits or states, as applicable. When submitting other than Ninth Circuit or California instructions, counsel should be sure that the law on which the instructions is based is the same as Ninth Circuit law (or California or other state law, if applicable) on the subject. Counsel may submit alternatives to the Ninth Circuit model jury instructions, or BAJI or CACI, only if counsel has a reasoned argument that those instructions do not properly state the law or they are incomplete.

3. The Court has its own introductory instructions (instructions read before opening statements). Counsel should provide only instructions to be read after the evidence has been submitted or that may be appropriate during trial.

4. Each requested instruction must (a) cite the authority or source of the

instructions, (b) be set forth in full, (c) be on a separate page, (d) be numbered, (e) cover only one subject or principle of law, and (f) not repeat principals of law contained in any other requested instructions.

5. By the date set by the Court, counsel must file with the Court and submit (electronically to the Chambers email box and in paper form) a JOINT set of jury instructions on which there is agreement. The Court expects counsel to agree on the substantial majority of jury instructions, particularly when pattern or model instructions provide a statement of applicable law. If one party fails to comply with the provisions of this section, the other party must file a unilateral set of jury instructions, unless that party wishes to waive jury trial.

6. At the same time, each party must file with the Court and submit (electronically to the Chambers email box in paper form) its proposed jury instructions that are objected to by any other party. Each disputed instruction must have attached a short (one or two paragraph) statement, including points and authorities in support of the instructions as well as brief statement, including points and authorities, in support of any objections. A proposed alternative instruction must be provided, if applicable. If the Court believes there are so many disputed instructions that the trial would be unnecessarily interrupted in order for the Court to resolve disputes, the Court will determine that the matter is not yet ready to be tried, and will order counsel to continue to meet and confer until most of the disputes are resolved.

7. Counsel must provide the documents described in paragraphs 5 and 6 to the Chambers email box in Word format at the time they file their proposed jury instructions.

8. The Court will send one or more copies of the instructions into the jury room for the jury's use during deliberations. Therefore, in addition to the copies described above, the Chambers email versions must contain a "clean" set of jury instructions, containing only the text of the instructions (one per page) with the

caption “Instruction No. [Leave blank] at the top (eliminating table of contents, titles, supporting authority, etc.). This document must have page numbers.

9. Counsel must provide an index of all instructions submitted, which must include the following:

- a. The number of the instruction.
- b. The title of the instruction;
- c. the source of the instruction and any relevant case citations;
- d. The page number of the instruction.

For example:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
1	Duty of the Jury	9th Cir. 1.4	1

**10. FAILURE TO FOLLOW THE PRECEDING PROVISIONS OF THIS SECTION WILL SUBJECT THE NON-COMPLYING PARTY AND ATTORNEY TO SANCTIONS AND WILL BE DEEMED TO CONSTITUTE A WAIVER OF JURY TRIAL.**

11. During the trial and before argument, the Court will meet with counsel and settle the instructions, and counsel will have an opportunity to make a further record concerning their objections.

12. At the time of lodging the proposed pretrial conference order, counsel should file a jointly prepared one or two page statment of the case to be read by the Court to the prospective panel of jurors before commencement of voir dire.

13. The Court will conduct the voir dire. The Court provides a list of basic questions, and may provide a list of additional questions to jurors before voir dire. (This is not a questionnaire to be completed by jurors.) Counsel may, but are not required to, file and submit (electronically to the Chambers email box and in paper form in Word format) a list of proposed case-specific voir dire questions at the time they lodge the proposed pretrial conference order



14. In most cases the Court will conduct its initial voir dire of 16 prospective jurors who will be seated in the jury box. Generally the Court will select eight jurors.

15. Each side will have three peremptory challenges. Once all challenges for cause and peremptory challenges are exercised, the eight jurors in the lowest numbered seats will be the jury. If fewer than eight jurors remain, the Court may decide to proceed with six or seven jurors.

C. GLOSSARY, TRIAL EXHIBITS WITNESS LISTS, ETC.

1. All counsel are to meet not later than ten days before trial and to stipulate, so far as is possible, to foundation, to waiver of the best evidence rule, and to those exhibits that may be received into evidence at the start of the trial.

2. At least one week before trial, counsel must send to the Chambers email box in Word format:

a. A case-specific glossary for the court reporter that includes applicable medical, scientific, or technical terms, slang, the names and spellings of case names likely to be cited, street/city/country names, all parties/entities involved in the case, names of people interviewed/deposed, names of family members, friends, or others who might be mentioned, and other case-specific terminology;

b. The party's witness list, with a column to add the date on which the witness testified;

c. The joint exhibit list in the form specified in Local Rule 16-6. An annotated exhibit list identifying the exhibits to be received into evidence at the start of the trial must also be provided.

3. On the first morning of trial, counsel must submit to the CRD:

a. All original exhibits (except those to be used for impeachment only), with official exhibit tags attached and bearing the same number shown on the exhibit list. Exhibit tags may be obtained from the receptionist in the Public

Intake Section, located on the 1st floor of the Edward R. Roybal Federal Building at 255 East Temple St., Room 180. Digital exhibit tags are also available on the Court's website under Court forms>General forms>Form G-14A (plaintiff) and G-14B (defendant). Exhibit must be numbered 1, 2, 3, etc., NOT 1.1, 1.2, etc. and in accordance with Local Rule 16-6. The defense exhibit numbers must not duplicate plaintiff's numbers. If a "blow-up" is an enlargement of an existing exhibit, it must be designated with the number of the original exhibit followed by an "A.";

b. Two sets of the exhibits that can be reproduced (one for the Court and one for witnesses) placed in three-ring binders with divider tabs containing the exhibit numbers. The face and spine of the binders must be marked with the case name and number, the volume number, and the number range of the exhibits in the binder. Each binder must contain an index of the exhibits included in the volume.

4. A copy of the exhibit list with all admitted exhibits will be given to the jury during deliberations. Counsel must review and approve the exhibit list with the CRD before the list is given to the jury.

5. Where a significant number of exhibits will be admitted, the Court encourages counsel, preferably by agreement, to consider ways in which testimony about exhibits may be intelligible to the jury while it is being presented. Counsel should consider such devices as jury notebooks for admitted exhibits, or enlargements of important exhibits. The Court has an Elmo and other equipment available for use during trial. Information concerning training on the use of electronic equipment is available. Details are posted on the Court's website. To make reservations for training, call 213-894-3061 The Court does not permit exhibits to be "published" by passing them up and down the jury box. Exhibits may be displayed briefly using the screens in the courtroom, unless the process becomes too time-consuming.

6. Counsel must not attempt to display or use any charts or enlargements of exhibits unless all counsel have agreed to their use or objections have been heard and a ruling has been made.

D. TRIAL

1. On the day of jury selection, trial will begin at 9:00 a.m. Counsel must be prepared to go on the record at 8:30 a.m. Thereafter, trial days are generally Tuesday through Friday, 8:00 a.m. to 2:00 p.m., with three fifteen-minute breaks. When necessary, trials may continue beyond the normal schedule. If counsel contemplate that this schedule will be problematic due to the availability of witnesses, counsel should provide details to the Court at the pretrial conference.

2. On the day of jury selection, the Court reserves the time from 8:30 a.m. to 9:00 a.m. to handle legal and administrative matters. Jury selection will begin promptly at 9:00 a.m. or as soon as jurors are available. Thereafter, legal and administrative matters must be addressed between 7:45 a.m. and 8:00 a.m. All counsel are urged to anticipate matters that may need to be addressed outside of the presence of the jury and to raise them during this period or at the end of the day. The Court does not make jurors wait while counsel discuss matters that should have been addressed previously. Counsel are urged to consider any unusual substantive or evidentiary issues that may arise, and to advise the Court of such issues as early as possible. Short briefs addressing such disputed issues are welcome.

3. Before trial begins, the Court will give counsel an opportunity to discuss administrative matters and anticipated procedural or legal issues. Before trial begins, and as soon as the information becomes available to counsel, counsel should advise the court of any concerns or accommodations that are requested for parties or witnesses. During trial, if there are any matters to be discussed outside the presence of the jury, counsel must advise the CRD of the request. The Court discourages sidebars during trial.

4. All orders for transcripts must be ordered through the court reporters, Pat Cuneo, who can be contacted through www.patcuneo.com

### III

#### **CONDUCT OF ATTORNEYS AND PARTIES**

##### **A. OPENING STATEMENTS, EXAMINIG WITNESSES, AND SUMMATION**

1. Counsel must use the lectern for opening statements, examination of witnesses, and summation.

2. Counsel must not consume time by writing out words, drawing charts or diagrams, etc. Counsel may do so in advance and explain that the item was prepared earlier as ordered by the Court to save time.

3. The Court will establish reasonable time estimates for opening and closing, arguments, examination of witnesses, etc.

##### **B. OBJECTIONS TO QUESTIONS**

1. Counsel must not use objectins for the purpose of making a speech, recapitulating testimony, or attempting to guide the witness.

2. When objecting, counsel must rise to state the objection and state only that counsel objects and the legal ground of objection. If counsel wishes to argue an objection further, counsel must ask for permission to do so.

##### **C. GENERAL DECORUM**

1. Counsel should not approach the CRD or the witness box without specific permission. If permission is given, counsel should return to the lecturn when the purpose has been accomplished. Counsel should not question a witness at the witness stand.

2. Counsel and parties should rise when addressing the Court, and when the Court or the jury enters or leaves the courtroom.

3. Counsel should address all remarks to the Court. Counsel are not to address the CRD, the court reporter, persons in the audience, or opposing counsel

1 while on the record. If counsel wish to speak with opposing counsel, counsel  
2 must ask permission to do so. Any request for the re-reading of questions or  
3 answers must be addressed to the Court. Such requests should be limited and are  
4 not likely to be granted.

5 4. Counsel should not address or refer to witnesses or parties by first name  
6 alone. Young witnesses (under 14) may, however, be addressed and referred to by  
7 first name.

8 5. Counsel must not offer a stipulation unless counsel has conferred with  
9 opposing counsel and has verified that the stipulation will be acceptable.

10 6. While Court is in session, counsel must not leave counsel table to confer  
11 with any personnel or witnesses unless permission has been granted in advance.

12 7. Counsel should not be facial expression, nodding, or other conduct  
13 exhibit any opinion, adverse or favorable, concerning any testimony being given  
14 by a witness, statements or arguments by opposing counsel, or rulings by the  
15 Court. Counsel should admonish counsel's own clients and witnesses to avoid  
16 such conduct.

17 8. Counsel should not talk to jurors at all, and should not talk to co-  
18 counsel, opposing counsel, witnesses, or clients where the conversation can be  
19 overheard by jurors. Each counsel should admonish counsel's own clients and  
20 witnesses to avoid such conduct.

21 9. Where a party has more than one lawyers, only one may conduct the  
22 direct or cross-examination of a particular witness, or make objections as to that  
23 witness.

24 **D. PROMPTNESS OF COUNSEL AND WITNESSES**

25 1. The Court makes every effort to begin proceedings at the time set.  
26 Promptness is expected from counsel and witnesses. Once counsel are engaged in  
27 trial, the trial is counsel's first priority. The Court will not delay the trial or  
28 inconvenience jurors except under extraordinary circumstances. The Court will

advise other courts that counsel are engaged in trial in this Court on request.

2           2. If a witness was on the stand at a recess or adjournment, counsel must  
3 have the witness back on the stand, ready to proceed, when the court session  
4 resumes.

5           3. Counsel must notify the CRD in advance if any witness should be  
6 accommodated based on a disability or for other reasons.

7           4. No presenting party may be without witnesses. If counsel has no more  
8 witnesses to call and there is more than a brief delay, the Court may deem that  
9 party to have rested.

10          5. The Court attempts to cooperate with professional witnesses and will,  
11 except in extraordinary circumstances, accommodate them by permitting them to  
12 be called out of sequence. Counsel must anticipate any such possibility and  
13 discuss it with opposing counsel. If there is an objection, counsel must confer  
14 with the Court in advance.

15           E. EXHIBITS

16          1. Each counsel should keep counsel's own list of exhibits and should note  
17 when each has been admitted into evidence.

18          2. Each counsel is responsible for any exhibits that counsel secures from  
19 the CRD and must return them before leaving the courtroom at the end of the  
20 session.

21          3. An exhibit not previously marked should, at the time of its first mention,  
22 be accompanied by a request that the CRD mark it for identification. To save  
23 time, counsel must show a new exhibit to opposing counsel before it is mentioned  
24 in court.

25          4. Counsel are to advise the CRD of any agreements they have with respect  
26 to the proposed exhibits and as to those exhibits that may be received so that no  
27 further motion to admit need be made.

28          5. When referring to an exhibit, counsel should refer to its exhibit number



whenever possible. Witnesses should be asked to do the same.

6. Counsel must not ask witnesses to draw charts or diagrams or ask the Court's permission for a witness to do so. If counsel wishes to question a witness in connection with graphic aids, the material must be fully prepared before the court session starts.

#### F. DEPOSITIONS

1. All depositions to be used at trial, either as evidence or potentially for impeachment, must be lodged with the CRD on the first day of trial or such earlier date as the Court may order. Counsel should verify with the CRD that the relevant deposition is in the CRD's possession.

2. In using depositions of an adverse party for impeachment, either one of the following procedures may be used:

a. If counsel wishes to read the questions and answers as alleged impeachment and ask the witness no further questions on that subject, counsel must first state the page and line where the reading begins and the page and line where the reading ends, and allow time for any objection. Counsel may then read the portions of the deposition into the record.

b. If counsel wishes to ask the witness further questions on the subject matter, the deposition is placed in front of the witness and the witness is told to read silently the pages and lines involved. Counsel may either ask the witness further questions on the matter and then read the quotations, or read the quotations and then ask further questions. Counsel should have an extra copy of the deposition for this purpose.

3. Where a witness is absent and the witness's testimony is offered by deposition, counsel may (a) have a reader occupy the witness chair and read the testimony of the witness while the examining layer asks the questions, or (b) have counsel read both the questions and answers.

#### G. USING NUMEROUS ANSWERS AND INTERROGATORIES AND

REQUESTS FOR ADMISSIONS

Whenever counsel expects to offer a group of answers to interrogatories or requests for admission extracted from one or more lengthy documents, counsel should prepare a new document listing each question and answer, and identifying the document from which it has been extracted. Copies of this new document should be given to the Court and opposing counsel.

H. ADVANCE NOTICE OF DIFFICULT OR UNUSUAL ISSUES

If any counsel has reason to anticipate that a difficult question of law or evidence will necessitate legal argument requiring research or briefing, counsel must give the Court advance notice. Counsel are directed to notify the CRD at the day's adjournment if an unexpected legal issue arises. Counsel must also advise the CRD at the end of each trial day of any issues that must be addressed outside the presence of the jury, so that there is no interruption of the trial. THE COURT WILL NOT KEEP JURORS WAITING.

**N.B. "COUNSEL," AS USED IN THIS ORDER, INCLUDES PARTIES APPEARING IN *PROPRIA PERSONA*.**

**IT IS SO ORDERED.**

DATED: July 31, 2020

/s/ Dale S. Fischer  
Dale S. Fischer  
United States District Judge

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

	)	CASE NO. CV	DSF( x)
	)		
	)		
Plaintiff(s),	)		
	)		
vs.	)	<b>EXHIBIT LIST</b>	
	)		
	)	<i>SAMPLE FORMAT</i>	
Defendant(s).	)		

EX. No.	DESCRIPTION	IDENTIFIED	ADMITTED

CASE: \_\_\_\_\_

TRIAL DATE: \_\_\_\_\_

FINAL JOINT TRIAL WITNESS ESTIMATE FORM

	WITNESS NAME	PARTY CALLING WITNESS AND ESTIMATE	X-EXAMINER'S ESTIMATE	DESCRIPTION OF TESTIMONY	COMMENTS
1					
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10					
	TOTAL ESTIMATES THIS PAGE:				

Instructions:

(1) List witnesses (last name first); (2) For description, be extremely brief, e.g., “eyewitness to accident” or “expert on standard of care;” (3) Use estimates within fractions of an hour, rounded off to closest quarter of an hour, e.g., if you estimate 20 minutes, make it .25. An estimate of one and one-half hours would be 1.5. An estimate of three-quarters of an hour would be .75; (4) Note special factors in “Comments” column, e.g., “Needs interpreter;” (5) Entries may be in handwriting if very neat and legible.

# **APPENDIX B**

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

JANET GARCIA, et at.,  
  
Plaintiff(s),  
  
vs.  
  
CITY OF LOS ANGELES, et al.,  
  
Defendant(s).

CASE NO. 2:19-cv-06182-DSF-PLA  
*Assigned to Honorable Dale S. Fischer*  
  
**ORDER GRANTING THE JOINT  
STIPULATION TO CONTINUE  
TRIAL AND ALL OTHER  
PRETRIAL RELATED DATES**



**ORDER**

**GOOD CAUSE APPEARING**, the Court hereby approves this Joint Stipulation by and between the parties and continues the trial and all requisite pre-trial dates, as set forth in the table below:

<b><u>EVENT</u></b>	<b><u>CURRENT DATE</u></b>	<b><u>NEW DATE</u></b>
Motion to Amend Pleadings or Add Parties Cut-Off	February 1, 2021	Monday, August 2, 2021
Discovery Cut-Off	January 25, 2021	Monday, July 26, 2021
Expert Witness Exchange Deadline (Initial)	February 22, 2021	Monday, August 23, 2021
Expert Witness Exchange Deadline (Rebuttal)	March 22, 2021	Monday, September 20, 2021
Expert Witness Cut-Off	April 19, 2021	Monday, October 18, 2021
Motion Hearing Cut-Off	June 7, 2021	Monday, December 6, 2021
ADR Cut-Off:	June 21, 2021	Monday, December 20, 2021
Trial Documents (Set One)	July 26, 2021	Monday, January 25, 2022
Trial Documents (Set Two)	August 2, 2021	Monday, January 31, 2022
Final Pre-trial Conference	August 16, 2021 at 3:00 p.m.	Monday, February 14, 2022 at 3:00 p.m.
Trial Date	September 14, 2021 at 8:30 a.m.	Monday, March 15, 2022 at 8:30 a.m.

IT IS SO ORDERED.

DATED: December 9, 2020



Honorable Dale S. Fischer  
UNITED STATES DISTRICT JUDGE